

**CONFERENCE COMMITTEE REPORT
ON HOUSE BILL 6**

Senator Harris of Dallas submitted the following Conference Committee Report:

Austin, Texas
August 10, 1991

Honorable Bob Bullock
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 6** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

HARRIS OF DALLAS
GLASGOW
LUCIO

On the part of the Senate

COUNTS
BRIMER
JUNELL
S. THOMPSON
On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

MEMORIAL RESOLUTION

S.R. 213 - By Ellis: In memory of Representative Larry Q. Evans.

CONGRATULATORY RESOLUTION

S.R. 214 - By Barrientos: Extending congratulations to Jean Clark, employee of the Office of the Comptroller of Public Accounts, on the occasion of her retirement after more than three decades of service.

ADJOURNMENT

On motion of Senator Glasgow, the Senate at 5:04 p.m. adjourned until 10:00 a.m. tomorrow.

**TWENTY-SECOND DAY
(Sunday, August 11, 1991)**

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

A quorum was announced present.

Senator Chet Brooks offered the invocation as follows:

Almighty God, be with us in these hours of the closing days of the session. Help us do Thy will. Help us to be open to work with each other, to work with the people all across the State to try to do Thy will, and to try to do what is right for our people: to try to help those in need, those who are sick, those who are underprivileged, and those who are troubled. Help us, Almighty God, make this a good and glorious State as it always has been. Help us keep the quality of life good, access to services good, and above all else, Almighty God, forgive us our sins and help us always remember: where there is no opportunity, there is no freedom. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

CO-AUTHOR OF SENATE BILL 108

On motion of Senator Glasgow and by unanimous consent, Senator Moncrief will be shown as Co-author of S.B. 108.

REPORT OF STANDING COMMITTEE

Senator Haley submitted the following report for the Committee on Administration:

C.S.H.B. 222

BILL AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bill and resolutions:

S.C.R. 22

S.C.R. 23

S.B. 3 (Signed subject to Art. III,
Sec. 49a of the Constitution)

HOUSE BILL 211 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 211, Relating to the transfer of funds by certain state teaching hospitals and hospital districts and to the use of those funds for the Medicaid disproportionate share program.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 211 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 211** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 104 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 104, Relating to the eligibility for federal funds for highway and alcohol-awareness programs through the implementation of a statewide administrative driver's license revocation program; providing penalties.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 104 ON THIRD READING**

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.B. 104** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 12 ON SECOND READING

On motion of Senator Haley and by unanimous consent, Senate Rule 7.14 and the regular order of business were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 12, Relating to the application of the professional prosecutors law to certain prosecutors and to the powers and duties of certain prosecutors covered by that law.

The bill was read second time.

Senator Haley offered the following committee amendment to the bill:

Amend **H.B. 12** to add an appropriately numbered section as follows:

SECTION Chapter 43, Government Code, is amended by adding Section 43.1243 to read as follows:

Sec. 43.1243. 42ND JUDICIAL DISTRICT. (a) The voters of Coleman County elect a district attorney for the 42nd Judicial District who represents the state in that district court only in Coleman County.

(b) The Coleman County district attorney shall perform all of the duties in Coleman County required by district attorneys by general law and shall represent the state in criminal cases pending in the district court of the county. The district attorney has control of any case heard on habeas corpus before any civil district or criminal court of the county.

(c) The district attorney has all of the powers, duties, and privileges in Coleman County relating to criminal matters for and on behalf of the state that are conferred on district attorneys in other counties and districts.

(d) The comptroller of public accounts shall pay directly to the district attorney of Coleman County a salary equal to the salary authorized by the General Appropriations Act for a district attorney. The salary shall be paid in equal monthly installments on the first day of each month.

(e) The Commissioners Court of Coleman County may supplement the district attorney's salary in an amount to be set by the commissioners court.

(f) The district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by district or county attorneys.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Haley and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 12 ON THIRD READING

Senator Haley moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 12** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

GUEST PRESENTED

The President acknowledged the presence of Congressman Charles Wilson of Lufkin.

The Senate welcomed Congressman Wilson.

SENATE BILL 103 ON SECOND READING

Senator Moncrief asked unanimous consent to suspend Senate Rule 7.14 and the regular order of business to take up for consideration at this time:

S.B. 103, Relating to the sale and protection of certain animals; providing civil and criminal penalties.

There was objection.

Senator Moncrief then moved to suspend Senate Rule 7.14 and the regular order of business to take up **S.B. 103** for consideration at this time.

The motion prevailed by the following vote: Yeas 23, Nays 3.

Yeas: Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Henderson, Johnson, Krier, Lucio, Moncrief, Parker, Ratliff, Rosson, Sibley, Tejeda, Turner, Whitmire, Zaffirini.

Nays: Armbrister, Leedom, Sims.

Absent: Barrientos, Harris of Dallas, Lyon, Montford, Truan.

The bill was read second time.

Senator Sims offered the following amendment to the bill:

Floor Amendment No. 1

Amend **S.B. 103** as follows:

In Section 2, item (3), delete "cougars".

The amendment was read and failed of adoption by the following vote: Yeas 13, Nays 13.

Yeas: Armbrister, Bivins, Brown, Carriker, Dickson, Glasgow, Henderson, Krier, Leedom, Ratliff, Sibley, Sims, Whitmire.

Nays: Brooks, Ellis, Haley, Harris of Tarrant, Johnson, Lucio, Lyon, Moncrief, Parker, Rosson, Tejeda, Turner, Zaffirini.

Absent: Barrientos, Green, Harris of Dallas, Montford, Truan.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 2

Amend **S.B. 103** as follows:

Amend line 24 on page 3 following the "." after the word "unlawful" and add the following: "unless additional permits for those animals are obtained."

The amendment was read and was adopted by a viva voce vote.

Senator Dickson offered the following amendment to the bill:

Floor Amendment No. 3

Amend S.B. 103 as follows:

In Section 9, Subsection (a), after has been held in captivity, add In areas where cougars are known to roam at large, there is a rebuttable presumption that the animal has not been in captivity.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Moncrief and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 103 ON THIRD READING

Senator Moncrief moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that S.B. 103 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Armbrister, Sims.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2. (Same as previous roll call)

SENATE BILL 102 ON SECOND READING

On motion of Senator Glasgow and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 102, Relating to the amended or supplemental designation of, and to local restrictions on, the premises on which alcoholic beverages may be sold.

The bill was read second time.

Senator Glasgow offered the following committee amendment to the bill:

Committee Amendment

Amend S.B. 102 by adding the following SECTION 4 and SECTION 5 and renumbering the existing sections accordingly:

SECTION 4. Subchapter C, Chapter 11, Alcoholic Beverage Code, is amended by adding Section 11.612 to read as follows:

Sec. 11.612. CANCELLATION OF PERMIT OR LICENSE IN CERTAIN CITIES. The commission or administrator may cancel an original or renewal wine and beer retailer's permit or retail dealer's on-premise license and may refuse to issue any new alcoholic beverage permit or license for the same premises for one year after the date of cancellation if:

(1) the premises for which the permit or license is issued are located in a city with a population of 1 million or more;

(2) the chief of police of the city in which the premises are located has submitted a sworn statement to the commission stating that the place or manner in which the permittee or licensee conducts its business endangers the general welfare, health, peace, morals, and safety of the community and further stating that

there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee;

(3) the sheriff of the county in which the premises are located has submitted a sworn statement to the commission stating that the place or manner in which the permittee or licensee conducts its business endangers the general welfare, health, peace, morals, and safety of the community and further stating that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee; and

(4) it is found, after notice and hearing, that the place or manner in which the permittee or licensee conducts its business does in fact endanger the general welfare, health, peace, morals, and safety of the community and that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee.

SECTION 5. (a) Subsection (d), Section 109.57, Alcoholic Beverage Code, is amended to read as follows:

(d) This section does not affect the authority of a governmental entity to regulate, in a manner as otherwise permitted by law, the location of:

(1) a massage parlor, nude modeling studio, or other sexually oriented business; or

(2) an establishment that derives 75 percent or more of the establishment's gross revenue from the ~~[on-premise]~~ sale of alcoholic beverages ~~for on-premise consumption.~~

(b) The change in wording made by this section in Section 109.57(d)(2), Alcoholic Beverage Code, from "the on-premise sale of alcoholic beverages" to "the sale of alcoholic beverages for on-premise consumption" is a nonsubstantive change only to clarify and reflect the original intent of the legislature in enacting Section 109.57, Alcoholic Beverage Code.

The committee amendment was read.

On motion of Senator Ellis and by unanimous consent, the committee amendment was withdrawn.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend S.B. 102 by adding the following SECTION 4 and SECTION 5 and renumbering the existing sections accordingly:

SECTION 4. Subchapter C, Chapter 11, Alcoholic Beverage Code, is amended by adding Section 11.612 to read as follows:

Sec. 11.612. CANCELLATION OF PERMIT OR LICENSE IN CERTAIN CITIES. The commission or administrator may cancel an original or renewal wine and beer retailer's permit or retail dealer's on-premise license and may refuse to issue any new alcoholic beverage permit or license for the same premises for one year after the date of cancellation if:

(1) the premises for which the permit or license is issued is located in a city with a population of 1,000,000 or more;

(2) the chief of police of the city in which the premises is located has submitted a sworn statement to the commission stating that the place or manner in which the permittee or licensee conducts its business endangers the general welfare, health, peace, morals, and safety of the community, and further stating that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee;

(3) the sheriff of the county in which the premises is located has submitted a sworn statement to the commission stating that the place or manner in which the permittee or licensee conducts its business endangers the general welfare, health, peace, morals, and safety of the community, and further stating that

there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee; and

(4) it is found, after notice and hearing, that the place or manner in which the permittee or licensee conducts its business does in fact endanger the general welfare, health, peace, morals, and safety of the community and that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee.

SECTION 5. (a) Section 109.57(d), Alcoholic Beverage Code, is amended to read as follows:

(d) This section does not affect the authority of a governmental entity to regulate, in a manner as otherwise permitted by law, the location of:

(1) a massage parlor, nude modeling studio, or other sexually oriented business; or

(2) an establishment that derives 75 percent or more of the establishment's gross revenue from the [on-premise] sale of alcoholic beverages for on-premise consumption.

(b) The wording change made by this section in Sec. 109.57(d)(2) from "the on-premise sale of alcoholic beverages" to "the sale of alcoholic beverages for on-premise consumption" is a nonsubstantive change only to clarify and reflect the original intent of the legislature in enacting Sec. 109.57.

The amendment was read.

On motion of Senator Ellis and by unanimous consent, the amendment was withdrawn.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 2

Amend **S.B. 102** by adding a new SECTION 4 and renumbering the subsequent sections accordingly, to read as follows:

SECTION 4. Severability - No provision of this Act shall be deemed severable and if any provision, section, paragraph, phrase or portion thereof is declared invalid, unenforceable, illegal or unconstitutional, this Act in its entirety shall be declared likewise, illegal, invalid, unenforceable or unconstitutional.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Glasgow and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 102 ON THIRD READING

Senator Glasgow moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **S.B. 102** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE

SENATE BILL 88 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, Senate Rule 7.14 and the regular order of business were suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 88, Relating to the powers and duties of the Texas Rehabilitation Commission.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 88 ON THIRD READING**

Senator Ellis moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.S.B. 88 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Glasgow in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 224 ON SECOND READING**

On motion of Senator Parker and by unanimous consent, Senate Rule 7.14 and the regular order of business were suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 224, Relating to a limitation on school district administrative costs and an adjustment to funding based on those costs.

The bill was read second time.

Senator Parker offered the following amendment to the bill:

Amend C.S.H.B. 224 by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter G, Chapter 16, Education Code, is amended by adding Section 16.2541 to read as follows:

Sec. 16.2541. ADMINISTRATIVE COST ADJUSTMENT. (a) Except as provided in Subsection (b), a district shall be subject to the provisions of Subsection (d) if the district in the prior year expended on administrative costs an amount of state and local funds per weighted student in average daily attendance that exceeded the average of those costs for all districts in the state as determined by the commissioner of education, by:

(1) 10 percent, for the school year 1990-91; or

(2) 5 percent, for any subsequent year.

(b) If a district has fewer than five students in average daily attendance per square mile, the percentages in Subsection (a) are increased by a number of percentage points equal to the product of an amount equal to the difference between five and the number of students in average daily attendance per square mile multiplied by twelve percent.

(c) Not later than January 1 of each school year, the commissioner shall determine the administrative cost per weighted student in average daily attendance for all districts in the state for the previous school year, the average of those costs, and the amounts, if any, by which a school district's administrative costs exceeded the average of those costs by more than the percentage specified in Subsection (a).

(d) If a school district is subject to the provisions of this subsection, the county education district in which the district is located shall deduct from its distribution of funds to the school district under Section 16.501 of this code the amount of excess administrative cost determined by the commissioner under Subsection (c) of this section multiplied by the statewide average percentage of state funding to state and local funding for the previous year. The county education district shall distribute

the deducted funds, and the state shall reduce its distribution to the school districts receiving such funds, in the manner provided in Section 16.254(d) of this code.

(e) In this section:

(1) "Weighted student in average daily attendance" is calculated by dividing the sum of the school district's allotments under Subchapters C and D of this chapter, less any allotments to the district for transportation, career ladder supplements, or technology, by the basic allotment for the applicable year.

(2) "Administrative costs" has the meaning assigned by the commissioner of education, except that such costs may not include the salaries of a campus principal or assistant principal.

SECTION 2. Section 16.254(d), Education Code, as amended by Chapter 20, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(d) Notwithstanding any other provision of this chapter, if for any year the total state's share of the Foundation School Program, as determined under this chapter, exceeds the total amount appropriated for that year, the commissioner shall calculate the amount of reduction in each school district's allocation from the county education district [~~reduce the total amount of state funds allocated to each district by an amount determined~~] by a method under which the application of the same number of cents of increase in tax rate applied to the taxable value of property of each district, as determined under Section 11.86 of this code, results in a levy for each district equal to the amount deducted from that district's allocation. The county education district in which the district is located shall deduct from its distribution of funds to the school district under Section 16.501 of this code the amount of reduction in allocation determined by the commissioner under this subsection. The county education district shall distribute the deducted funds, or funds deducted under Section 16.254(d) of this code, proportionately to all other component school districts receiving state aid based on the amounts of that aid, except that the total funds distributed to a component school district under this section and under Section 16.501 of this code may not exceed the maximum distribution as provided by Section 16.501. The commissioner shall reduce a school district's grant under Section 16.254(b) of this code by the amount of any funds received from the county education district under this subsection.

SECTION 3. This act takes effect September 1, 1991.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Parker and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 224 ON THIRD READING

Senator Parker moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 224 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 22 ON SECOND READING

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 22, Relating to the declaration of an LP gas emergency temporarily suspending certain transportation requirements.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 22 ON THIRD READING

Senator Sims moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 22** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0, Present-not voting 2.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Present-not voting: Moncrief, Montford.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 2. (Same as previous roll call)

(President in Chair)

SENATE BILL 106 ON SECOND READING

On motion of Senator Krier and by unanimous consent, Senate Rule 7.14 and the regular order of business were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 106, Relating to the authority of the Texas Water Commission or the Texas Natural Resource Conservation Commission to determine reasonable use of artesian water.

The bill was read second time.

Senator Krier offered the following amendment to the bill:

Amend **S.B. 106** by striking SECTION 1 of the bill and substituting the following:

SECTION 1. Section 11.205, Water Code, is amended by amending Subsections (b) and (c) to read as follows:

(b) ~~[It is not waste to use water from an artesian well, if suitable, for proper irrigation of trees on a street, road, or highway or for ornamental ponds or fountains or for the propagation of fish.]~~

[(c)] A person who commits waste as defined in this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$500 or by confinement in the county jail for not more than 90 days or by both.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Krier and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 106 ON THIRD READING

Senator Krier moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that S.B. 106 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Armbrister.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Armbrister asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 19 ON SECOND READING

On motion of Senator Sibley and by unanimous consent, Senate Rule 7.14 and the regular order of business were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 19, Relating to the terms served by members of the Agricultural Diversification Board, the execution of the Texas Link Deposit Program, the amount of funds that may be placed in the Texas Link Deposit Program, and the purposes for which loans made under that program may be used.

The bill was read second time.

Senator Carriker offered the following amendment to the bill:

Amend H.B. 19 by striking all below the enacting clause and substituting the following:

SECTION 1. Section 44.003(c), Agriculture Code, is amended to read as follows:

(c) Members of the board serve staggered terms of two years, with the terms of two members appointed by the governor and the ex officio member appointed by the house of representatives expiring on January 1 of each odd-numbered year and the terms of two members appointed by the governor and the ex officio member appointed by the lieutenant governor expiring on January 1 of each even-numbered year [expiring January 1 of each odd-numbered year].

SECTION 2. Sections 44.007(a), (b), and (f), Agriculture Code, are amended to read as follows:

(a) The commissioner shall establish a linked deposit program to encourage commercial lending for enhancing or reestablishing ~~the enhanced~~ production, processing, and marketing of certain agricultural crops.

(b) The commissioner shall promulgate rules for the loan portion of the linked deposit program. The rules must include a list of the categories of crops customarily grown in Texas, a ~~and another~~ list of crops that are alternative crops, and a list of perennial crops being reestablished following a major natural disaster in a region of Texas that did not include more than four counties.

(f) After reviewing each linked deposit loan application, the commissioner shall, with the consent of a majority of the board, file with [recommend to] the state treasurer a recommendation about the acceptance or rejection of the application based solely on the eligibility and creditworthiness of the applicant and the purpose for which the loan is to be used. The commissioner may not consider the qualifications of the lending institution that sent the application to the commissioner or make any recommendation concerning the lending institution.

SECTION 3. Section 44.010, Agriculture Code, is amended to read as follows:

Sec. 44.010. **LIMITATIONS IN PROGRAM.** (a) At any one time, not more than \$10 [~~\$5~~] million may be placed in linked deposits under this chapter.

(b) The maximum amount of a loan under this chapter to process and market Texas agricultural crops is \$500,000 [~~\$250,000~~]. The maximum amount of a loan under this chapter to produce alternative agricultural crops in this state is \$250,000 [~~\$100,000~~].

(c) A loan granted pursuant to this chapter must be applied to:

(1) the purchase or lease of land;[;]

(2) the preparation of land;

(3) the purchase or use of equipment, seed or plants[~~;-fertilizer~~], direct marketing facilities, or processing facilities;[;] or

(4)[~~to~~] payment for professional services.

SECTION 4. (a) This Act does not affect the term of office of a member of the Agricultural Diversification Board serving on the effective date of this Act.

(b) In order to achieve a staggered-term membership scheme on the Agricultural Diversification Board, as required by the amendment made by Section 1 of this Act to Section 44.003(c), Agriculture Code:

(1) the governor shall appoint two of the members whose terms begin on January 1, 1993, for one-year terms and two for two-year terms; and

(2) the ex officio appointee to the board appointed by the speaker of the house of representatives for the term beginning January 1, 1993, shall serve a one-year term.

(c) On the expiration of the terms of the members of the Agricultural Diversification Board whose terms expire on January 1, 1994, all members of the board serve two-year terms.

SECTION 5. The legislature finds that the recommendations of the Rural Economic Development Commission, created by Sections 1 through 5, Chapter 819, Acts of the 71st Legislature, Regular Session, 1989 (Article 5190.2a, Vernon's Texas Civil Statutes), that were submitted to the 72nd Legislature are of merit and that rural communities lack the resources of urban areas in many matters, including economic development, environmental issues, education, taxation, transportation, and health care. The purpose of this Act is to provide ways to reduce those disparities and encourage the development of rural Texas through increased cooperation between the state and its agencies, the use of new federal initiatives, and the development of guidelines and structures to maximize federal grants and assistance.

SECTION 6. Subtitle D, Title 4, Government Code, is amended by adding Chapter 448 to read as follows:

CHAPTER 448. OFFICE OF RURAL AFFAIRS

Sec. 448.001. **DEFINITIONS.** In this chapter:

(1) "Coordinator" means the state coordinator of the office of rural affairs.

(2) "Eligible lending institution" means a financial institution that makes commercial loans, is a depository of state funds, and agrees to participate in the linked deposit program and to provide collateral equal to the amount of linked deposits placed with it.

(3) "Office" means the office of rural affairs in the governor's office.

(4) "Review panel" means the rural development review panel.

(5) "Small business" means a corporation, partnership, sole proprietorship, or other legal entity that has less than \$1 million in annual gross receipts.

Sec. 448.002. CREATION OF OFFICE. (a) The office of rural affairs in the governor's office.

(b) The governor shall appoint a state coordinator of rural affairs to manage and administer the office.

(c) The office shall have such staff as the coordinator finds necessary.

Sec. 448.003. POWERS AND DUTIES. (a) The office shall:

(1) serve as the clearinghouse and coordination center for all state and federal programs dealing with rural development, rural transportation, rural communications, rural water and wastewater facilities, rural emergency assistance and management, and other matters affecting rural areas;

(2) in consultation with the review panel and other state agencies, develop a statewide area plan and local and regional area plans where necessary, which include long-range rural development goals;

(3) report annually to the legislature on the status of rural development in Texas; and

(4) maximize federal grants and assistance, particularly those outlined in the Consolidated Farm and Rural Development Act (7 U.S.C. Sec. 1921 et seq.).

(b) The office may serve as a contractor for state agencies involved in rural development and may contract with a state agency or a nonprofit organization described in Section 509(a)(3), Internal Revenue Code of 1986 (26 U.S.C. 509(a)(3)), for work in areas of rural development.

(c) The office shall contract with the Center for Rural Health Initiatives for work in the area of rural health.

Sec. 448.004. RURAL DEVELOPMENT REVIEW PANEL. (a) The rural development review panel is established to advise the office and serves as the state rural economic development review panel prescribed by the Rural Economic Development Act of 1990 (Title XXIII, Pub. L. 101-624).

(b) The review panel shall be composed of no more than 16 voting members. Members who are representatives of statewide associations shall be appointed by the governor from nominees submitted by appropriate associations and shall serve at the pleasure of the governor.

(c) The review panel shall include:

(1) the governor or the governor's designee;

(2) the chairman of the governing board of the Texas Department of Commerce;

(3) a representative of a statewide banking association;

(4) a representative of a statewide association of investor-owned utilities;

(5) a representative of a statewide association of rural telephone cooperatives;

(6) a representative of a statewide association of investor-owned telephone companies;

(7) a representative of a statewide association of rural electric cooperatives;

(8) a representative of a statewide association of health care organizations;

(9) a representative of a statewide association of existing local government-based planning and development organizations;

(10) a representative of a statewide rural development organization or a statewide association of publicly owned electric utilities, neither of which is described in Subdivisions (3) through (8);

(11) a representative of a statewide association of counties;

(12) a representative of a statewide association of towns and townships or of a statewide association of municipal leagues;

(13) a representative of a statewide association of rural water districts;

(14) a regional director of the federal small business development centers or the director of the state office of the U.S. Small Business Administration; and

(15) the representative of the Economic Development Administration of the United States Department of Commerce.

(d) The review panel shall not have more than four nonvoting members who serve in an advisory capacity, are representatives of rural areas, and become members as follows:

(1) one is appointed by the governor from names submitted by the dean or the equivalent official of each school or college of business of the colleges and universities in the state;

(2) one is appointed by the governor from names submitted by the dean or equivalent official of each school or college of engineering of the colleges and universities in the state;

(3) one is appointed by the governor from names submitted by the dean or equivalent official of each school or college of agriculture of the colleges and universities in the state; and

(4) the director of the Texas Agricultural Extension Service.

(e) In instances where the review panel is reviewing matters relating to its duties as the state rural economic development review panel authorized by the Rural Economic Development Act of 1990 (Title XXIII, Pub. L. 101-624), an additional voting member of the review panel shall be seated. That member shall be appointed by the United States Secretary of Agriculture from among the officers and employees of the federal government.

(f) The governor may accept no more than three nominees for each position on the review panel from state associations designated by this chapter.

(g) The governor or the governor's designee shall serve as chairman of the review panel and shall appoint the vice-chairman, who shall preside in the absence of the governor or the governor's designee.

(h) The review panel shall meet quarterly or at the call of the chairman.

(i) The members of the review panel shall receive per diem and expenses for travel incurred in performing official duties of the review panel, as provided by the legislature in the General Appropriations Act, provided that the member is not eligible to receive reimbursement from the represented statewide association for this purpose.

Sec. 448.005. RURAL ECONOMIC ASSISTANCE CLEARINGHOUSE.

(a) The rural economic assistance clearinghouse is created within the office to provide rural Texans with a single point of access to economic development information, specifically information related to industrial expansion and recruitment, small business assistance, community economic development assistance, travel and tourism, education and training, leadership development, and grant and loan information.

(b) The rural economic assistance clearinghouse will cooperate with existing state agencies and draw on the resources of those agencies to establish a central access point for rural economic development information.

(c) A rural information clearinghouse steering committee is established to advise and evaluate the operations of the rural economic assistance clearinghouse. The steering committee is composed of nine members, with four public members appointed by the governor for terms of two years and one representative each of the Texas Department of Commerce, the Texas Department of Agriculture, the Texas Agricultural Extension Service, the Office of the Comptroller of Public Accounts, and the Texas Department of Community Affairs.

Sec. 448.006. RURAL DEVELOPMENT TRAINING CONSORTIUM. (a) The rural development training consortium is composed of three members appointed by the governor.

(b) The Texas State Technical Institute, Texas Department of Community Affairs, Texas Department of Commerce, Texas Agricultural Extension Service, and the comptroller of public accounts shall provide support staff to the consortium.

(c) The consortium shall:

(1) conduct an inventory of current management training for small businesses and strategic planning training for community leaders currently being offered by public and private entities in the state; and

(2) develop a proposed implementation plan and service delivery system to coordinate existing training programs and recommend any additional training programs for small businesses and community leaders.

(d) Before February 1, 1993, the consortium shall submit a report to the 73rd Legislature on the implementation plan and service delivery system.

(e) The consortium is abolished on February 2, 1993, and this section expires on that date.

Sec. 448.007. LINKED DEPOSIT. A linked deposit is a time deposit governed by a written deposit agreement between the state and an eligible lending institution that provides:

(1) that the eligible lending institution pay interest on the deposit at a rate that is not less than the current market rate of a United States treasury bill or note of comparable maturity minus two percent;

(2) that the state not withdraw any part of the deposit before the expiration of a period set by a written advance notice of the intention to withdraw; and

(3) that the eligible lending institution agree to lend the value of the deposit to an eligible borrower at a maximum rate that is the current market rate of a United States treasury bill or note of comparable maturity plus four percent.

Sec. 448.008. LINKED DEPOSIT PROGRAM. (a) The office shall operate a linked deposit program to encourage commercial lending for the development and expansion of small businesses in rural areas.

(b) The office shall adopt rules for the loan portion of the linked deposit program.

(c) In order to participate in the linked deposit program, an eligible lending institution may solicit loan applications from eligible borrowers.

(d) To be an eligible borrower, a person must be conducting business in this state.

(e) After reviewing an application and determining that the applicant is eligible and creditworthy, the eligible lending institution shall send the application for a linked deposit loan to the office.

(f) The eligible lending institution shall certify the interest rate applicable to the specific eligible borrower and attach it to the application sent to the office.

(g) After reviewing each linked deposit loan application, the office shall recommend to the state treasurer the acceptance or rejection of the application.

(h) After acceptance of the application, the state treasurer shall place a linked deposit with the applicable lending institution for the period the treasurer considers appropriate. The state treasurer may not place a deposit for a period extending beyond the state fiscal biennium in which it is placed. Subject to the limitation described by Section 448.011, the treasurer may place time deposits at an interest rate described by Section 448.007, notwithstanding any order of the State Depository Board to the contrary.

(i) Before the placing of a linked deposit, the eligible lending institution and the state, represented by the state treasurer and the office, shall enter into a written deposit agreement containing the conditions on which the linked deposit is made.

(j) If a lending institution holding linked deposits ceases to be a state depository, the state treasurer may withdraw the linked deposit.

Sec. 448.009. COMPLIANCE. (a) On accepting a linked deposit, an eligible lending institution must loan money to eligible borrowers in accordance with the deposit agreement and this chapter. The eligible lending institution shall forward a compliance report to the office.

(b) The office shall monitor compliance with this chapter and inform the state treasurer of noncompliance on the part of an eligible lending institution.

Sec. 448.010. STATE LIABILITY PROHIBITED. The state is not liable to an eligible lending institution for payment of the principal, interest, or any late charges made on a loan made to an eligible borrower. A delay in payment or default on a loan by an eligible borrower does not affect the validity of the deposit agreement. Linked deposits are not an extension of the state's credit within the meaning of any state constitutional prohibition.

Sec. 448.011. LIMITATIONS IN PROGRAM. (a) At any one time, not more than \$15 million may be placed in linked deposits under this chapter.

(b) The maximum amount of a linked deposit loan under this chapter is \$250,000.

SECTION 7. Notwithstanding the Linked Deposit Program authority granted by this Act, the Legislature may not appropriate funds for the Office of Rural Affairs from the General Revenue Fund for the biennium ending August 31, 1993.

SECTION 8. This Act takes effect September 1, 1991.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Sibley moved to table the amendment.

The motion to table was lost by the following vote: Yeas 11, Nays 19.

Yeas: Armbrister, Bivins, Brown, Harris of Tarrant, Harris of Dallas, Henderson, Krier, Leedom, Ratliff, Sibley, Sims.

Nays: Barrientos, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Johnson, Lucio, Lyon, Moncrief, Parker, Rosson, Tejada, Truan, Turner, Whitmire, Zaffirini.

Absent: Montford.

Question recurring on the adoption of Floor Amendment No. 1, the amendment was adopted by a viva voce vote.

On motion of Senator Sibley and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 19 ON THIRD READING

Senator Sibley moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 19 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Dallas, Henderson, Johnson, Krier, Lucio, Lyon, Moncrief, Ratliff, Rosson, Sibley, Sims, Tejeda, Turner, Whitmire, Zaffirini.

Nays: Harris of Tarrant, Leedom, Parker.

Absent: Montford, Truan.

The bill was read third time.

Question—Shall the bill be finally passed?

HOUSE BILL 55 ON SECOND READING

On motion of Senator Haley and by unanimous consent, Senate Rule 7.14 and the regular order of business were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 55, Relating to the State Preservation Board; providing a penalty.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 1

Amend H.B. 55 by striking SECTION 7 of the bill and substituting the following:

SECTION 7. Chapter 443, Government Code, is amended by adding Sections 443.017-443.019 to read as follows:

Sec. 443.017. **TRANSFER OF CERTAIN HISTORICAL ITEMS.** (a) A state agency or other state entity that possesses a state-owned item identified by the curator of the Capitol and the board as an item of historical significance that was at one time located in the Capitol or in the General Land Office Building shall transfer the item to the inventory of the board at the direction of the curator not later than the 60th day after the date that the curator notifies the agency or entity. The state agency or other state entity shall subsequently transfer physical possession of the item to the board in accordance with policies and procedures established by the board.

(b) An item that is in the Capitol office of a member of the legislature, that is transferred under Subsection (a), and that the board proposes to relocate may be relocated only to a place within the original dimensions of the Capitol building and only after the proposed relocation is approved by the chairman of the administration committee of the appropriate house of the legislature.

(c) This section does not apply to records or documents in the custody of the General Land Office or the Texas State Library and Archives Commission.

Sec. 443.018. **REGULATION OF VISITORS.** (a) The board shall adopt rules that regulate the actions of visitors in the Capitol or on the grounds of the Capitol. The rules shall:

(1) prohibit persons from attaching signs, banners, or other displays to a part of the Capitol or to a structure, including a fence, on the grounds of the Capitol except as approved by the board;

(2) prohibit a visitor from placing furniture in the Capitol or on the grounds of the Capitol for a period that exceeds 24 hours except as approved by the board;

(3) prohibit the setting up or placement of camping equipment, shelter, or related materials in the Capitol or on the grounds of the Capitol except as approved by the board;

(4) prohibit actions that block access to a portion of the Capitol or the grounds of the Capitol except as approved by the board;

(5) prohibit actions that pose a risk to safety;

(6) provide that members of the public must leave the Capitol when the building is closed to the public; and

(7) provide that all pets except Seeing Eye dogs are not permitted in the Capitol, and shall be restrained at all times on a leash or similar device in the immediate control of the owner while on the grounds of the Capitol, except as approved by the board.

(b) A person commits an offense if the person violates a rule of the board adopted under Subsection (a).

(c) An offense under this section is a Class C misdemeanor.

(d) This section may not be applied in a manner that violates a person's rights under the Texas Constitution or the First Amendment to the United States Constitution, including the right of persons peaceably to assemble.

(e) The board shall send proposed rules under this section to the attorney general for review and comment before the board adopts the rules.

Sec. 443.019. DEPOSIT FOR USE OF CAPITOL OR CAPITOL GROUNDS. (a) The board may require and collect a standardized deposit from a person or entity that uses the Capitol or the grounds of the Capitol for an event, exhibit, or other scheduled activity. The deposit is in an amount set by the board designed to recover the estimated direct costs to the state of the event, exhibit, or activity. The board shall set the amounts of deposits required under this section in a uniform and nondiscriminatory manner for similar events, exhibits, or other scheduled activities. The board may deduct from the deposit:

(1) the cost of damage to the Capitol or grounds of the Capitol that directly results from the event, exhibit, or other activity;

(2) the costs of extra labor, materials, and utilities directly attributable to the event, exhibit, or other activity; and

(3) the costs of extra security requested by the person or entity for the event, exhibit, or other activity.

(b) The board may charge and collect the costs listed under Subsection (a) from a person or entity that uses the Capitol or the grounds of the Capitol for an event, exhibit, or other scheduled activity and that does not post a deposit under Subsection (a).

The amendment was read.

Senator Barrientos offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to H.B. 55 by deleting Subsection 4, lines 15 through 17 of page 2 and replacing it with:

- (4) prohibit actions that block ingress and egress:
 - a) into the Capitol building, or

b) rooms or hallways within the Capitol building, except as approved by the Board;

The amendment to the amendment was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1 as amended, the amendment as amended was adopted by a viva voce vote.

On motion of Senator Haley and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 55 ON THIRD READING

Senator Haley moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 55 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION ON FIRST READING

On motion of Senator Barrientos and by unanimous consent, the following resolution was introduced, read first time and referred to the Committee indicated:

S.J.R. 17 by Barrientos, Brooks, Glasgow Finance
Proposing a constitutional amendment providing for the issuance of general obligation bonds by the Texas Higher Education Coordinating Board.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Haley and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Administration might meet and consider S.B. 108 today.

RECESS

On motion of Senator Brooks, the Senate at 11:49 a.m. took recess until 1:30 p.m. today.

AFTER RECESS

The Senate met at 1:30 p.m. and was called to order by the President.

REPORT OF STANDING COMMITTEE

By unanimous consent, Senator Haley submitted the following report for the Committee on Administration:

S.B. 108

COMMITTEE OF THE WHOLE SENATE

On motion of Senator Parker and by unanimous consent, the Senate at 1:35 p.m. resolved into a Committee of the Whole Senate with Senator Brooks presiding.

IN LEGISLATIVE SESSION

Senator Glasgow called the Senate to order at 3:18 p.m. as In Legislative Session.

RECESS

On motion of Senator Ellis, the Senate at 3:27 p.m. took recess, in memory of Representative Larry Evans, until 3:00 p.m. tomorrow.

TWENTY-SECOND DAY
(Continued)
(Monday, August 12, 1991)

AFTER RECESS

The Senate met at 3:00 p.m. and was called to order by the President.

REPORT OF STANDING COMMITTEE

By unanimous consent, Senator Montford submitted the following report for the Committee on Finance:

H.B. 203

SENATE BILLS ON FIRST READING

On motion of Senator Green and by unanimous consent, the following bills were introduced, read first time and referred to the Committee indicated:

S.B. 109 by Green Jurisprudence
Relating to the duties of the presiding judge of certain justice.

S.B. 110 by Green Jurisprudence
Relating to the appointment of hearing officers for criminal and mental health cases in certain courts.

SENATE RESOLUTION 193

Senator Barrientos offered the following resolution:

WHEREAS, For more than seven years Charles E. Milton has loyally and faithfully served the Texas Senate and the citizens of Texas, and they will sorely miss the dedicated car guard who is retiring August 9, 1991; and

WHEREAS, With a ready smile and an amusing tale to entertain his friends and acquaintances, Mr. Milton has been steadfast in his position that requires a great deal of tact and patience; and

WHEREAS, Patrons of the state archives and capitol grounds are greeted by the friendly guard who is responsible for directing traffic flow and providing directions and other information to capitol visitors; and

WHEREAS, Mr. Milton has endeared himself to many of the capitol personnel who have been privileged to know him and share his warmth and humor; and

WHEREAS, After a productive career spanning 30 years Mr. Milton retired from the Hormel Company; not content with retirement, the energetic gentleman began a second career with the Texas Senate; and

WHEREAS, Born on December 2, 1900, Mr. Milton has been happily married for six years to his wife, Daisy, who came to Texas from Pennsylvania; and

WHEREAS, Not one to take it easy for long, Mr. Milton has traveled to Australia, Hawaii, Alaska, and London; and

WHEREAS, This summer he is planning an extensive trip with his family to Yellowstone National Park and throughout the Western United States; and

WHEREAS, The Texas Senate has benefitted immeasurably from the diligence and hard work of this conscientious public servant who has discharged his duties in a commendable manner; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 72nd Legislature, 1st Called Session, hereby express sincere appreciation to Charles E. Milton for his many years of devoted service to the people of Texas; and, be it further

RESOLVED, That a copy of this Resolution be presented to him as an expression of the high regard and esteem of the Texas Senate with its best wishes for many happy retirement years.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Barrientos, the resolution was adopted by a viva voce vote.

(Senator Carriker in Chair)

(Senator Brooks in Chair)

SENATE RESOLUTION 219

Senator Haley offered the following resolution:

S.R. 219, Extending congratulations to Portia Payne Gaines for her exceptional contributions to the citizens of Center, and upon her retirement after 40 years of service at Center High School.

The resolution was read and was adopted by a viva voce vote.

(President in Chair)

BILL AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bill and resolutions:

H.B. 81

H.J.R. 8

H.J.R. 10

CAPITOL PHYSICIAN

Senator Barrientos was recognized and presented Dr. Mathis Blackstock of Austin as the "Doctor for the Day."

The Senate welcomed Dr. Blackstock and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

SENATE BILL 108 ON SECOND READING

Senator Glasgow asked unanimous consent to suspend the regular order of business, Senate Rule 7.14 and Senate Rule 7.26 to take up for consideration at this time:

S.B. 108, Relating to the issuance of revenue bonds to provide financial assistance for manufacturing activities in Texas.

There was objection.

Senator Glasgow then moved to suspend the regular order of business, Senate Rule 7.14 and Senate Rule 7.26 to take up **S.B. 108** for consideration at this time.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Johnson, Krier, Lucio, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Henderson, Leedom, Lyon.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 108 ON THIRD READING

Senator Glasgow moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **S.B. 108** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Johnson, Krier, Lucio, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Henderson, Leedom, Lyon.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3. (Same as previous roll call)

MESSAGE FROM THE HOUSE

House Chamber
August 12, 1991

HONORABLE BOB BULLOCK
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 35, Congratulating the Falfurrias Fightin' Jerseys on winning the state championship in Class 3A baseball.

H.C.R. 36, Honoring the 1st Fifteen Nationally Certified Residential Care Administrators in Texas.

Respectfully submitted,
BETTY MURRAY, Chief Clerk
House of Representatives

MOTION TO ADOPT CONFERENCE COMMITTEE REPORT ON HOUSE BILL 78

Senator Barrientos called from the President's table the Conference Committee Report on **H.B. 78**. (The Conference Committee Report having been filed with the Senate and read on Saturday, August 10, 1991.)

Senator Barrientos moved adoption of the Conference Committee Report.

POINT OF ORDER

Senator Harris of Dallas raised a Point of Order that all the State agencies being affected by the bill were not listed in the caption of the bill.

On motion of Senator Barrientos and by unanimous consent, the motion to adopt the Conference Committee Report was withdrawn.

On motion of Senator Harris of Dallas and by unanimous consent, the Point of Order was withdrawn.

FLOOR PRIVILEGES GRANTED

On motion of Senator Montford and by unanimous consent, floor privileges were granted to staff members of the Legislative Budget Board, John Opperman and Sheila Beckett, during deliberation of C.S.H.B. 1.

AT EASE

The President at 3:50 p.m. announced the Senate would stand At Ease until 4:20 p.m.

IN LEGISLATIVE SESSION

The President at 4:20 p.m. called the Senate to order as In Legislative Session.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1 ON SECOND READING**

Senator Montford asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 1, Appropriating money for the support of the Judicial, Executive and Legislative Branches of the State government, for the construction of State buildings, and for State aid to public junior colleges, for the period beginning September 1, 1991 and ending August 31, 1993, authorizing and prescribing conditions, limitations, rules and procedures for allocating and expending the appropriated funds; and declaring an emergency.

There was objection.

Senator Montford then moved to suspend the regular order of business and take up C.S.H.B. 1 for consideration at this time.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Johnson, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Brown, Harris of Tarrant, Harris of Dallas, Henderson, Krier, Leedom.

The bill was read second time.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 1

On motion of Senator Montford and by unanimous consent, Floor Amendment No. 1 was ordered not printed.

The amendment was read.

(Senator Brooks in Chair)

(President in Chair)

Senator Montford offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to C.S.H.B. 1 as follows:

(1) On page V-74 Section 105 by deleting the reference in paragraph 1 to "following list of state agencies" and insert in lieu thereof "the list of state agencies

contained in Sec. 117, Art. V, S.B. 222, Acts of the Seventy-First Legislature, Regular Session, 1989.”

(2) On page I-305 under the Workers' Compensation Commission delete line 1(a) and substitute the following adjusting all totals accordingly:

	<u>1992</u>	<u>1993</u>
1(a) Executive Administration	\$1,428,525	\$1,428,525

(3) On page III-57 under The University of Texas-Pan American add a special item as follows:

	<u>1992</u>	<u>1993</u>
Educational Leadership Doctorate		
Program Development	\$385,500	U.B.

Adjust all totals and the Method of Finance accordingly.

(4) On page III-58, appropriations to The University of Texas-Brownsville, add the following special item:

	<u>1992</u>	<u>1993</u>
Program Development	\$250,000	\$250,000

Adjust all totals and the Method of Finance accordingly.

(5) On page I-272, appropriations to the Department of Transportation, delete Rider No. 44.

(6) On page III-133, appropriations for Texas State Technical College-Sweetwater, add the following phrase to Rider No. 3, Information Listing of Special Items:

“...including and not limited to the use of a portion of such funds for the construction of and Applied Technology Education Center in Sweetwater, Texas.”

(7) On page I-92, add the following provision to the appropriation for the Department of Justice Planning and Assistance:

12. TRANSFER CONTINGENCY In the event H.B. 4, Seventy-Second Legislature, First Called Session does not pass and become law, the appropriations made to the Department of Justice Planning and Assistance shall have no effect and the following amounts are appropriated to the entities listed below:

	<u>FY 1992</u>	<u>FY 1993</u>
CRIMINAL JUSTICE DIVISION-		
GOVERNOR'S OFFICE, estimated	\$60,539,021	\$59,474,966
Method of Financing		
Fund No. 421, estimated	\$52,339,021	\$51,274,966
Crime Stoppers Assistance Account	700,000	700,000
Automobile Theft Prevention Fund	7,500,000	7,500,000

	<u>FY 1992</u>	<u>FY 1993</u>
CRIMINAL JUSTICE POLICY COUNCIL	\$ 398,170	\$ 398,170
Method of Financing		
Fund No. 421	\$ 263,133	\$ 263,133
Federal Funds, estimated	110,037	110,037
Interagency Contracts	25,000	25,000

INTERAGENCY COUNCIL ON SEX
OFFENDER TREATMENT

	<u>FY 1992</u>	<u>FY 1993</u>
From the General Revenue Fund	\$ 64,900	\$ 64,900

Appropriations made in this Act from Fund No. 421 and from Criminal Justice Grants, to agencies other than the Governor's Office, are to be considered direct appropriations from Fund No. 421. After these appropriated amounts are considered, the division made expend amounts from Fund No. 421 in excess of those appropriated above.

(8) On page III-117, under appropriations to Texas Tech University, add the following Rider:

7. INTERNATIONAL CULTURAL CENTER. The amount appropriated above for Item 1.q., International Cultural Center, shall be expended for the establishment, support, and operation of educational programs at the Texas Tech University International Cultural Center. Such appropriation is contingent upon the establishment and construction of the International Cultural Center facility from private and non-state funding sources.

(9)(a) On page II-81, under appropriations to the Youth Commission delete Rider No. 22.

(b) On page II-82, under appropriations to the Juvenile Probation Commission add the following rider:

JUVENILE BOOT CAMP. Out of the funds appropriated to Community Corrections, the Executive Director is instructed to fund a juvenile boot camp program located in Harris County. The executive director shall fund such boot camp program when the proper authorities in the Harris County Juvenile Probation Department have notified the executive director that 100 youth have been identified as qualified for this program. Funding for the juvenile boot camp is not to exceed \$2 million for the biennium. The youth identified should have the highest probable degree of risk to become adult offenders. The executive director will assure that adequate auditing of the success of the program is in place such that the Legislature, by January 1, 1993, can assess the success of the program.

The amendment to the amendment was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1 as amended, the amendment as amended was adopted by a viva voce vote.

VOTE ON ADOPTION OF FLOOR AMENDMENT NO. 1 AS AMENDED RECONSIDERED

On motion of Senator Montford and by unanimous consent, the vote by which Floor Amendment No. 1 as amended was adopted was reconsidered.

Question—Shall Floor Amendment No. 1 as amended be adopted?

Senator Montford offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 3

Amend Floor Amendment No. 1 to C.S.H.B. 1 as follows:

(10)(a) On page III-53, under appropriations to The University of Texas at Austin delete from Item No. 1.i. University Outreach Center the reference to Corpus Christi.

(b) On page III-72, under appropriations to Texas A&M University delete from Item No. 1.j. University Outreach Center the reference to Corpus Christi.

The amendment to the amendment was read and was adopted by a viva voce vote.

Question again recurring on the adoption of Floor Amendment No. 1 as amended, the amendment as amended was again adopted by a viva voce vote.

On motion of Senator Montford, and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by the following vote: Yeas 24, Nays 7.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Johnson, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Brown, Harris of Tarrant, Harris of Dallas, Henderson, Krier, Leedom, Sibley.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1 ON THIRD READING**

Senator Montford moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 1 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Dallas, Henderson, Johnson, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Harris of Tarrant, Krier, Leedom.

Question—Shall the bill be read third time?

POINT OF ORDER

Senator Krier raised a Point of Order against the Senate's further consideration of C.S.H.B. 1.

POINT OF ORDER OVERRULED

The President stated that a question has been raised as to whether the Senate may consider a bill making appropriations under circumstances in which the Legislative Budget Board of the 71st Legislature was unable to agree on a rate of growth to allow the fixing of a spending limit under Article VIII, Section 22, of the Texas Constitution.

In accordance with the constitution's requirement that the Legislature enact general law procedures to implement the constitutional limitation, the Legislature by statute has made it a duty of the Legislative Budget Board of the 71st Legislature to establish the estimated rate of growth in the economy and the amount that may be appropriated by the 72nd Legislature within the limit established by the estimated rate of growth. (Sec. 316.002, Government Code)

Under the rules of the Legislative Budget Board, action by that board requires an affirmative vote of the majority of the board members from each of the respective Houses. As a result of that rule the board was unable to agree as to the estimated rate of growth and the limit on appropriations for the current biennium.

The Senate of the 72nd Legislature has no mechanism by which it may have required the Legislative Budget Board of the 71st Legislature to act, and because the determination inherently involves the exercise of discretion on the part of the board members, the chair is of the opinion that it is not an action subject to court mandamus.

Accordingly, under present circumstances, there is not an effective limit on appropriations against which the Senate may judge appropriations bills, therefore the Point of Order is respectfully overruled.

Question—Shall the bill be read third time?

The bill was read third time and was passed by the following vote: Yeas 24, Nays 7.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Johnson, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Brown, Harris of Tarrant, Harris of Dallas, Henderson, Krier, Leedom, Sibley.

MESSAGE FROM THE HOUSE

House Chamber
August 12, 1991

HONORABLE BOB BULLOCK
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House discharged the conferees on **H.B. 158**, and then concurred in Senate amendments to **H.B. 158** by a record vote of 75 Ayes, 61 Noes.

The House has adopted the Conference Committee Report on **H.B. 6** by a record vote of 138 Ayes, 2 Noes.

The House has adopted the Conference Committee Report on **H.B. 78** by a record vote of 102 Ayes, 37 Noes.

Respectfully submitted,

BETTY MURRAY, Chief Clerk
House of Representatives

(Senator Carriker in Chair)

COMMITTEE SUBSTITUTE HOUSE BILL 11 ON SECOND READING

Senator Glasgow asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 11, Relating to raising revenue for the operation of state and local government and to the imposition, application, rates, collection, and administration of various fees and taxes and to the allocation of revenue from fees and taxes.

(President in Chair)

There was objection.

Senator Glasgow then moved to suspend the regular order of business and take up **C.S.H.B. 11** for consideration at this time.

The motion prevailed by the following vote: Yeas 24, Nays 7.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Johnson, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Brown, Harris of Tarrant, Harris of Dallas, Henderson, Krier, Leedom, Sibley.

The bill was read second time.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.H.B. 11 as follows:

(1) After SECTION 2.02 of the bill (Committee Printing page 3, between lines 29 and 30), insert a new SECTION 2.021 to read as follows:

SECTION 2.021. Section 5, Article 4.10, Insurance Code, is amended to read as follows:

Sec. 5. GROSS PREMIUM RECEIPTS DEFINED. Gross premium receipts referred to herein are the total gross amount of premiums received for the taxable year on each and every kind of insurance or risk written upon property or risks located in the State of Texas (except premium receipts under Section 2), except premiums received from other licensed companies for reinsurance, less return premiums and dividends paid policyholders with no deduction for premiums paid for reinsurance. For policies that include a deductible negotiated under Article 5.55C of this code, the term includes the greater of actual premiums received or 75 percent of the manual premium applicable if the deductible option had not been chosen.

(2) In Subsections (7)(a) and (b), Section 9, Article 21.28-D, Insurance Code, as added by SECTION 2.04 of the bill (Committee Printing page 4, lines 11, 21, and 22), in each occurrence, strike "the numerator of which is the amount of policies" and substitute "the numerator of which is the amount of premiums received from the policies".

(3) In Subsections (7)(a) and (b), Section 9, Article 21.28-D, Insurance Code, as added by SECTION 2.04 of the bill (Committee Printing page 4, lines 16, 26, and 27), in each occurrence, strike "the denominator of which is the total amount of policies" and substitute "the denominator of which is the total amount of premiums received from the policies".

(4) In Section 405.032(a), Government Code, as amended by SECTION 3.03 of the bill (Committee Printing page 5, line 41), strike "corporation" and substitute "company".

(5) After SECTION 3.06 (Committee Printing page 7, lines 2-31) insert a new SECTION 3.061 to read as follows:

SECTION 3.061. (a) Chapter 403, Government Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. FEES

Sec. 403.301. GENERAL FEES. (a) The comptroller shall charge for the use of the state the following:

(1) for each official certificate, a fee of \$10; and

(2) for a certified copy of a record in the comptroller's office, a fee of \$1 a page and \$5 for certification.

(b) The comptroller may charge a fee of \$3 for a search of records in the comptroller's office if written evidence of the search is required.

(c) The comptroller may charge for purchases of public information by commercial users an additional amount, established by the comptroller based on employees' time in providing the information. For the purposes of this subsection "commercial user" means a purchaser of microfilm, microfiche, computer tapes, or computer printouts for the purpose of selling, advertising, or distributing a commodity or rendering professional or personal services.

(d) The fees established by the State Purchasing and General Services Commission under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), apply to uncertified copies of records in the comptroller's office.

(e) The comptroller may require a fee paid under this section to be paid in advance. The comptroller shall deposit the fees in the state treasury to the credit of the general revenue fund.

Sec. 403.302. REFUND. If the comptroller deposits in the state treasury a fee collected under this chapter that is not due or is in an amount exceeding the amount due the state, the fee or excess is subject to refund.

(b) This section takes effect January 1, 1992.

(6) Strike SECTION 4.03 (Committee Printing page 8, lines 13-35) and substitute a new SECTION 4.03 to read as follows:

SECTION 4.03. Sections 21(d), (e), and (f), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), as amended by Chapter 122, Acts of the 72nd Legislature, Regular Session, 1991, are amended to read as follows:

(d) The Department is authorized to provide information pertaining to an individual's date of birth, current license status, and most recent address as listed on the records of the Department upon written request and the payment of a Four Dollar (\$4.00) [~~Two Dollar (\$2.00)~~] fee by a person who submits the individual's driver's license number or his full name and date of birth and who shows a legitimate need for such information.

(e) The Department is authorized to provide information pertaining to an individual's date of birth, current license status, most recent address, and reported traffic law convictions and motor vehicle accidents in which the individual received a citation, by date and location, occurring within the immediate past three (3) year period when requested from the records of the Department on written request and payment of a Six Dollar (\$6.00) [~~Three Dollar (\$3.00)~~] fee by a person who submits the individual's driver's license number or his full name and date of birth and who shows a legitimate need for the information. If requests for such information be prepared in quantities of one hundred (100) or more from a single person at any one time and upon data processing request forms acceptable to the Department such information may be provided upon payment of a fee of Five Dollars (\$5.00) [~~Two Dollars and Fifty Cents (\$2.50)~~] for each individual request. The Department is authorized to provide the record information as provided in this subsection, certified by the Custodian of Records, on payment of a Ten Dollar (\$10.00) [~~Five Dollar (\$5.00)~~] fee for each request.

(f) The Department is authorized to provide information to the individual licensee pertaining to an individual's date of birth, current license status, most recent address, completion of an approved driver education course, the fact of (but not the reason for) completion of a driving safety course, and a listing of reported traffic law violations, and motor vehicle accidents, by date and location, as listed on the records of the Department upon written request and the payment of a Seven Dollar (\$7.00) [~~Three Dollar and Fifty Cents (\$3.50)~~] fee by the individual licensee who submits the individual's driver's license number or his full name and date of birth. The Department is authorized to provide the record information as provided in this subsection, certified by the Custodian of Records, on payment of a Ten Dollar (\$10.00) [~~Five Dollar (\$5.00)~~] fee for each individual request.

(7) After SECTION 5.03 (Committee Printing page 9, line 49 to page 10, line 47) insert a new SECTION 5.031 to read as follows:

SECTION 5.031. (a) Article 67011-1, Revised Statutes, is amended by adding Subsection (n) to read as follows:

(n)(1) If a person commits an offense under this article, and as a direct result of the offense the person causes an incident resulting in an accident response by a public agency, the person is liable on conviction for the offense for the reasonable expense to the agency of the accident response. In this article, a person is considered to have been convicted in a case if:

(A) sentence is imposed;
 (B) the defendant receives probation or deferred adjudication; or

(C) the court defers final disposition of the case.

(2) The liability authorized by this subsection may be established by civil suit; however, if a determination is made during a criminal trial that a person committed an offense under this article and as a direct result of the offense the person caused an incident resulting in an accident response by a public agency, the court may include the obligation for the liability as part of the judgment. A judgment that includes such an obligation is enforceable as any other judgment.

(3) The liability is a debt of the person to the public agency, and the public agency may collect the debt in the same manner as the public agency collects an express or implied contractual obligation to the agency.

(4) A person's liability under this subsection for the reasonable expense of an accident response may not exceed \$1,000 for a particular incident. For the purposes of this section, a reasonable expense for an accident response includes only those costs to the public agency arising directly from an accident response to a particular incident, such as the cost of providing police, fire-fighting, rescue, ambulance, and emergency medical services at the scene of the incident and the salaries of the personnel of the public agency responding to the incident.

(5) A bill for the expense of an accident response sent to a person by a public agency under this subsection must contain an itemized accounting of the components of the total charge. A bill that complies with the requirements of this subdivision is prima facie evidence of the reasonableness of the costs incurred in the accident response to which the bill applies.

(6) A policy of motor vehicle insurance delivered, issued for delivery, or renewed in this state may not cover payment of expenses charged to a person under this subsection.

(7) In this subsection, "public agency" means the state, a county, a municipality district, or public authority located in whole or in part in this state that provides police, fire-fighting, rescue, ambulance, or emergency medical services.

(b) The change in law made by Subsection (n), Article 6701I-1, Revised Statutes, as added by this section, applies only to an accident response made on or after the effective date of this section.

(8) Strike Section 160.121 (Committee Printing page 15, lines 15-23) and add a new Section 160.121 to read as follows:

Sec. 160.121. AMOUNT OF TAX SENT TO COMPTROLLER. (a) Except as provided by Subsections (b) and (c), on the 10th day of each month, each tax assessor-collector and the department shall send the money collected from taxes imposed by this chapter to the comptroller.

(b) A tax assessor-collector shall retain five percent of the taxes collected by the tax assessor-collector under this chapter as fees of office to be retained or paid into the appropriate county fund from which salaries are paid as provided by law and used to defray the costs of collection required under this chapter. As a minimum amount for the fees of office collectible, a tax assessor-collector is entitled to retain \$5 for each of the first 100 transactions processed in each fiscal year.

(c) Five percent of the taxes collected by the department under this chapter shall be deposited to the credit of the game, fish, and water safety fund and used by the department for the administration of this chapter.

(9) Strike SECTION 7.06 (Committee Printing page 16, lines 8-20) and renumber the subsequent sections appropriately.

(10) Strike SECTION 7.08 (Committee Printing page 16, lines 26-44) and substitute a new SECTION 7.08 to read as follows:

SECTION 7.08. In addition to the amounts retained or allocated under Section 160.121, Tax Code, as added by this article:

(1) the county tax assessor-collector shall retain an additional five percent of the amount of the tax collected by the tax assessor-collector during the state fiscal year ending August 31, 1992, under Chapter 160, Tax Code, as added by this article, to be deposited and used in the same manner as the amounts retained under Section 160.121(b), Tax Code, as added by this article; and

(2) an additional five percent of the amount of taxes collected by the department during the state fiscal year ending August 31, 1992, under Chapter 160, Tax Code, as added by this article, shall be deposited and used in the same manner as the deposits required under Section 160.121(c), Tax Code, as added by this article.

(11) In Subsection (b), SECTION 7.09, strike "160.121(b)" and substitute "160.121(c)".

(12) In Section 171.1031(b), Tax Code, as amended by SECTION 8.06 of the bill (Committee Printing page 20, line 9), between "corporation" and the period, insert "and a savings and loan association".

(13) In Section 171.106(a), Tax Code, as amended by SECTION 8.07 of the bill (Committee Printing page 21, line 10), strike "Section 171.103" and substitute "Section 171.103 or 171.1031, as applicable,".

(14) In Section 171.106(b), Tax Code, as amended by SECTION 8.07 of the bill (Committee Printing page 21, line 18), strike "Section 171.1032" and substitute "Section 171.1031 or 171.1032, as applicable,".

(15) In Section 171.106(c), Tax Code, as amended by SECTION 8.07 of the bill (Committee Printing page 21, line 33), between "are" and "domiciled", insert "commercially".

(16) In Section 171.110(a)(3), Tax Code, as added by SECTION 8.09 of the bill (Committee Printing page 23, line 26), between "amount" and "any", insert "any allowable deductions and".

(17) In Section 171.110(a)(3), Tax Code, as added by SECTION 8.09 of the bill (Committee Printing page 23, line 28), strike "(d)" and substitute "(e)".

(18) In Section 171.110(d), Tax Code, as added by SECTION 8.09 of the bill (Committee Printing page 23, line 42), between "Code" and the period, insert "except that an S corporation's reportable federal taxable income is the amount of the income reportable to the Internal Revenue Service as taxable to the corporation's shareholders".

(19) In Section 171.111(b)(2), Tax Code, as added by SECTION 8.09 of the bill (Committee Printing page 24, lines 10-14), strike Subdivision (2) and substitute the following:

"(2) apportioning the amount determined under Subdivision (1) to this state in the same manner earned surplus is apportioned under Section 171.106(b) or (c), as applicable, on the first report due on or after January 1, 1992;"

(20) In Section 171.111(e), Tax Code, as added by SECTION 8.09 of the bill (Committee Printing page 24, lines 36-39), strike the first sentence of the subsection and substitute the following:

A corporation that notifies the comptroller of its intent to preserve its right to take a credit allowed by this section shall submit with its notice of intent a statement of the amount determined under Subsection (b)(1).

(21) In Section 171.113(e), Tax Code, as added by SECTION 8.10 of the bill (Committee Printing page 26, line 11), between "the" and "due", insert "original".

(22) In Section 171.152(c), Tax Code, as amended by SECTION 8.12 of the bill (Committee Printing page 26, line 35), strike "May 1" and substitute "May 15".

(23) In Section 171.152(c), Tax Code, as amended by SECTION 8.12 of the bill (Committee Printing page 26, line 43), strike "May 1" and substitute "January 1 [May 1]".

(24) In Section 171.202(c), Tax Code, as amended by SECTION 8.16 of the bill (Committee Printing page 28, lines 18 and 30), strike "May 1" and substitute "May 15".

(25) In Sections 171.202(b) and (c), Tax Code, as amended by SECTION 8.16 of the bill (Committee Printing page 28, lines 9 and 32), strike "May 2" and substitute "May 16".

(26) In Section 171.202(b), Tax Code, as amended by SECTION 8.16 of the bill (Committee Printing page 28, lines 17 and 22), strike "November 1" and substitute "November 15".

(27) In Section 171.362(d), Tax Code, as amended by SECTION 8.22 of the bill (Committee Printing page 29, line 41), strike "May 1" and substitute "May 15".

(28) In Section 171.362(e), Tax Code, as amended by SECTION 8.22 of the bill (Committee Printing page 29, line 44), strike "November 1" and substitute "November 15".

(29) In Section 171.363(a), Tax Code, as added by SECTION 8.23 of the bill (Committee Printing page 29, lines 51 and 54), strike "return" and substitute "report".

(30) After SECTION 8.23 of this bill (Committee Printing page 30, between lines 6 and 7) insert a new SECTION 8.231 to read as follows:

SECTION 8.231. Section 171.401, Tax Code, is amended to read as follows:

Sec. 171.401. REVENUE DEPOSITED IN GENERAL REVENUE FUND.

[(a)] The revenue from the tax imposed by this chapter on corporations [other than banking corporations] shall be deposited to the credit of the general revenue fund.

[(b)] The revenue from the tax imposed by this chapter on banking corporations shall be deposited to the credit of the local government corporate banking franchise tax fund as provided by Article 4366c, Revised Statutes.

[(c)] Notwithstanding Subsection (b) of this section and Section 171.2021 of this code, revenue from the tax imposed by this chapter on a banking corporation for a reporting period for which the applicable tax rate is that provided by Section 171.002(a) of this code as amended by Section 1, Part 1, Article 2, H.B. 61, Acts of the 70th Legislature, 2nd Called Session, 1987, shall be deposited as follows:

[(1)] an amount equal to the amount of tax that would have been imposed on the banking corporation by this chapter at the applicable tax rate in effect on January 1, 1987, to the credit of the local government corporate banking franchise tax fund, to be allocated as provided by Article 4366c, Revised Statutes; and

[(2)] the remainder to the credit of the general revenue fund;

[(c-1)] This subsection and Subsection (c) of this section expire January 1, 1993;

(31) Strike SECTION 8.24 of the bill (Committee Printing page 30, lines 7-12) and substitute a new SECTION 8.24 to read as follows:

SECTION 8.24. The following provisions are repealed:

- (1) Section 171.003, Tax Code;
- (2) Section 171.054, Tax Code;
- (3) Section 171.113, as added by Section 5, Chapter 1198, Acts of the 71st Legislature, Regular Session, 1989;
- (4) Section 171.2021, Tax Code; and
- (5) Section 403.105, Government Code.

(32) In SECTION 8.27 of the bill (Committee Printing page 30, between lines 46 and 47) insert a new Subsection (c) to read as follows:

(c) This article does not affect the eligibility of a person to pursue legal remedies against the state, or to apply for and receive a credit, under Section 403.105(o), Government Code, as that section existed immediately before the effective date of this article, for taxes assessed under Chapter 171, Tax Code, that have been

unlawfully or erroneously collected before the effective date of this article, and the former law is continued in effect for that purpose. Notwithstanding Section 403.105(o), Government Code, as that section existed immediately before the effective date of this article, a local taxing unit is not liable for taxes assessed under Chapter 171, Tax Code, that have been unlawfully or erroneously collected before the effective date of this article. This subsection does not affect a claim for a refund filed or other legal action commenced against a local taxing unit before the effective date of this article.

(33) In SECTION 8.26(a) of the bill (Committee Printing page 30, line 21), strike "December 31, 1993" and substitute "December 31, 1992".

(34) In SECTION 8.26 of the bill (Committee Printing page 30, lines 21 and 34), strike "May 1" and substitute "May 15".

(35) In Subsection (b), Section 2B, Article 179d, Vernon's Texas Civil Statutes, as added by SECTION 11.03 of the bill (Committee Printing page 44, line 41), strike "10" and substitute "three".

(36) After SECTION 11.03 (Committee Printing page 44, line 49), insert a new SECTION 11.031 to read as follows:

SECTION 11.031. The Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), is amended by adding Section 19b to read as follows:

Sec. 19b. FEE ON PRIZES. (a) An authorized organization licensed to conduct bingo shall collect a fee from each person who wins a prize in a bingo game.

(b) The fee imposed by this section is three percent of the amount or value of the prize.

(c) A licensed authorized organization shall report and remit the fee imposed by this section at the same time and in the same manner as the gross receipts tax under Section 20 of this Act.

(37) Strike ARTICLE 13 (Committee Printing page 45, line 30 to page 47, line 31) and substitute a new ARTICLE 13 to read as follows:

ARTICLE 13. TAX INTEREST AND COLLECTION FEES

SECTION 13.01. Section 111.060(a), Tax Code, as amended by Chapter 409, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(a) The yearly interest rate on all delinquent taxes imposed by this title is 12 [10] percent, compounded monthly.

SECTION 13.02. Section 157.204, Tax Code, is amended to read as follows:

Sec. 157.204. PENALTY AND INTEREST. Any person who fails to timely pay the tax required by this chapter forfeits five percent of the amount due as a penalty, and after the first 30 days, forfeits an additional five percent. The penalty may never be less than \$1. Delinquent taxes shall draw interest at the rate provided by Section 111.060 [of 10 percent per annum], beginning 60 days from the date due.

SECTION 13.03. Section 158.151(a), Tax Code, is amended to read as follows:

(a) If any person fails to file a report required by this chapter or fails to pay the tax imposed, when the report or payment is due, an amount equal to five percent of the tax due shall be forfeited as a penalty. After the first 30 days following the due date of any report or payment, an additional five percent of the amount of the tax shall be forfeited. A penalty may never be less than \$1. Delinquent taxes shall draw interest at the rate provided by Section 111.060, [of 10 percent a year] beginning 60 days from the due date.

SECTION 13.04. Section 29(b), Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) Delinquent tax shall draw interest at the rate provided by Section 111.060, Tax Code [of 10 percent a year], beginning 60 days from the due date.

SECTION 13.05. Section 79, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 79. All assessments shall be due on August 15 of each year. Any public utility may instead make quarterly payments due on August 15, November 15, February 15, and May 15 of each year. There shall be assessed as a penalty an additional fee of 10 percent of the amount due for any late payment. Fees delinquent for more than 30 days shall draw interest at the rate of 12 ~~10~~ percent per annum, compounded monthly, on the assessment and penalty due.

SECTION 13.06. Section 4(b), Article 6060, Revised Statutes, is amended to read as follows:

(b) A tax imposed by this article that becomes delinquent draws interest at the rate of 12 ~~10~~ percent a year, compounded monthly, beginning on the 60th day after the date the tax becomes delinquent until the date the tax is paid.

SECTION 13.07. (a) This article takes effect September 1, 1991. If this article may not take effect on that date under Article III, Section 39, of the Texas Constitution, this article takes effect December 1, 1991.

(b) This article applies to taxes due on or after the effective date of this article. Taxes due before the effective date of this article are governed by the law in effect when the taxes became due, and that law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

(38) Strike SECTION 14.02 (Committee Printing page 47, lines 39-66) and substitute a new SECTION 14.02 to read as follows:

SECTION 14.02. Section 151.0101(a), Tax Code, is amended to read as follows:

(a) "Taxable services" means:

- (1) amusement services;
- (2) cable television services;
- (3) personal services;
- (4) motor vehicle parking and storage services;
- (5) the repair, remodeling, maintenance, and restoration of tangible personal property, except:

(A) aircraft;

(B) a ship, boat, or other vessel, other than:

(i) a taxable boat or motor as defined by

Section 160.001;

(ii) a sports fishing boat; or

(iii) any other vessel used for pleasure;

(C) the repair, maintenance, and restoration of a motor

vehicle; and

(D) the repair, maintenance, creation, and restoration

of a computer program, including its development and modification, not sold by the person performing the repair, maintenance, creation, or restoration service;

- (6) telecommunications services;
- (7) credit reporting services;
- (8) debt collection services;
- (9) insurance services;
- (10) information services;
- (11) real property services;
- (12) data processing services;
- (13) real property repair and remodeling; [and]
- (14) security services;
- (15) telephone answering services; and
- (16) wash and detail services.

(39) After SECTION 14.02 (Committee Printing page 47, lines 39-66), insert a new SECTION 14.021 to read as follows:

SECTION 14.021. (a) Section 151.0101(a), Tax Code, is amended to read as follows:

(a) "Taxable services" means:

- (1) amusement services;
- (2) cable television services;
- (3) personal services;
- (4) motor vehicle parking and storage services;
- (5) the repair, remodeling, maintenance, and restoration of tangible personal property, except:

(A) aircraft;

(B) a ship, boat, or other vessel, other than:

(i) a taxable boat or motor as defined by

Section 160.001;

(ii) a sports fishing boat; or

(iii) any other vessel used for pleasure;

(C) the repair, maintenance, and restoration of a motor

vehicle; and

(D) the repair, maintenance, creation, and restoration of a computer program, including its development and modification, not sold by the person performing the repair, maintenance, creation, or restoration service;

(6) telecommunications services;

(7) credit reporting services;

(8) debt collection services;

(9) insurance services;

(10) information services;

(11) real property services;

(12) data processing services;

(13) real property repair and remodeling; [and]

(14) security services; and

(15) telephone answering services.

(b) This section takes effect only if Section 14.02 of this Act has no effect as provided by Section 17.01(c) of this Act.

(40) After SECTION 14.03 (Committee Printing page 47, line 67 to page 48, line 6) insert a new SECTION 14.031 to read as follows:

SECTION 14.031. Subchapter A, Chapter 151, Tax Code, is amended by adding Section 151.0102 to read as follows:

Sec. 151.0102. "TELEPHONE ANSWERING SERVICES." "Telephone answering services" means the receiving and relaying of telephone messages by a human operator. The term does not include the automated receiving and relaying of telephone messages included within the definition of "telecommunications services" under Section 151.0103.

(41) After SECTION 14.06 (Committee Printing page 48, lines 40-62) insert a new SECTION 14.061 to read as follows:

SECTION 14.061. Section 151.3101, Tax Code, is amended to read as follows:

Sec. 151.3101. AMUSEMENT SERVICES EXEMPTIONS.

(a) Amusement services are exempted from the taxes imposed by this chapter only if exclusively provided:

(1) by this state, a municipality, county, school district, special district, or other political subdivision of this state or the United States;

(2) in a place that:

(A) is designated as a Recorded Texas Historic Landmark by the Texas Historical Commission; or

(B) is included in the National Register of Historic Places;

(3) by a nonprofit corporation or association, other than an entity described by Section 501(c)(7), Internal Revenue Code of 1986, if the proceeds do not go to the benefit of an individual except as a part of the services of a purely public charity;

(4) by a nonprofit corporation organized under the laws of this state for the purpose of encouraging agriculture by the maintenance of public fairs and exhibitions of livestock and no individual received a private benefit; or

(5) by an educational, religious, law enforcement association, or charitable organization.

(b) A musical concert performance or other amusement that is not solely for educational purposes is not exclusively provided under Subsection (a)(1) if an entity listed in that subsection contracts with an entity not listed in that subsection for the provision of the amusement.

(42) In the heading to Section 151.311, Tax Code, as amended by SECTION 14.07 of the bill (Committee Printing page 48, line 66) after "SCHOOL DISTRICT" insert "OR NONPROFIT HOSPITAL".

(43) In Section 151.311, Tax Code, as amended by SECTION 14.07 of the bill (Committee Printing page 48, line 68) after "school district" insert "or nonprofit hospital".

(44) In Section 151.311, Tax Code, as amended by SECTION 14.07 of the bill (Committee Printing page 49, line 5) after the last sentence of the section add the following:

"In this section "nonprofit hospital" means a hospital licensed under Chapter 241 or 577, Health and Safety Code, that is operated as a charitable or nonprofit establishment."

(45) After SECTION 14.09 (Committee Printing page 49, lines 43-63) add a new SECTION 14.091 to read as follows:

SECTION 14.091. Section 151.322(b), Tax Code, is amended to read as follows:

(b) In this section:

(1) "Returnable container" means a container of a kind customarily returned for reuse by the buyer of the contents.

(2) "Nonreturnable container" means a container other than a returnable container.

(3) "Container" means glass, plastic, or metal bottles, cans, barrels, and cylinders, but does not include any item of a type described in Section 151.302(d).

(46) Strike SECTION 14.10 (Committee Printing page 49, lines 64-68) and renumber subsequent sections appropriately.

(47) Strike SECTION 14.15 (Committee Printing page 51, lines 7-27) and substitute a new SECTION 14.15 to read as follows:

SECTION 14.15. There are exempted from the taxes imposed by Chapter 151, Tax Code, the receipts from the sale, use, or rental and the storage, use, or other consumption in this state of taxable items that became subject to the taxes because of the terms of Section 14.07 of this article, and that are the subject of a written contract or bid entered into on or before August 14, 1991. The exemption provided by this section has no effect after August 14, 1994.

(48) After SECTION 16.07 (Committee Printing page 53, line 3 to page 54, line 15), insert a new SECTION 16.071 to read as follows:

SECTION 16.071. (a) Article 8802(1), Revised Statutes, is amended to read as follows:

(1) Every "owner", save an owner holding an import license and holding coin-operated machines solely for re-sale, who exhibits, displays, or who

permits to be exhibited or displayed in this State any "coin-operated machine" shall pay, and there is hereby levied on each "coin-operated machine", as defined herein in Article 8801, except as are exempt herein, an annual occupation tax of \$60.00 [~~\$30.00~~]. The tax shall be paid to the comptroller by cashier's check or money order. The annual tax levied by this chapter may be collected by the comptroller on a quarterly basis. The comptroller may establish procedures for quarterly collection and set due dates for the tax payments. The tax due from the owner of a coin-operated machine first exhibited or displayed in this State later than March 31 shall be prorated on a quarterly basis, with one-fourth of the annual tax due for each quarter or portion of a quarter remaining in the calendar year. No refund or credit of the annual tax levied by this chapter may be allowed to any owner who ceases the exhibition or display of any coin-operated machine prior to the end of any calendar year. Subtitle B, Title 2, Tax Code, applies to the administration, collection, and enforcement of the taxes imposed by this chapter.

(b) This section does not apply to a tax imposed for calendar year 1991.

(49) After SECTION 16.07 (Committee Printing page 53, line 3 to page 54, line 15) insert a new SECTION 16.072 to read as follows:

SECTION 16.072. Section 43, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by adding Subsection (j) to read as follows:

(j) The commission on its own motion or on the petition of a utility shall provide for the adjustment of a utility's billing to reflect any increase or decrease of tax liability of the utility to the state resulting from House Bill 11, Acts of the 72nd Legislature, 1st Called Session, 1991, and that is attributable to activities that are subject to the jurisdiction of the commission. Any adjustment to billings under this section must be apportioned pro-rata to all types and classes of service provided by the utility and is effective only until the commission alters the adjustment as provided by this subsection or enters an order for the utility under this section or Section 42 of this Act. The adjustment of billings must be made effective at the same time as the increase or decrease of tax liability resulting from House Bill 11, Acts of the 72nd Legislature, 1st Called Session, 1991, or as soon after as is reasonably practical. Each year after any original adjustment, the commission shall review the utility's increase or decrease of tax liability resulting from House Bill 11, Acts of the 72nd Legislature, 1st Called Session, 1991, and alter the adjustment to reflect the increase or decrease. A proceeding under this subsection is not a rate case under this section.

(50) Strike SECTION 16.08 (Committee Printing page 54, lines 16-19) and substitute a new SECTION 16.08 to read as follows:

SECTION 16.08. (a) Except as provided by Subsection (b) of this section, this article takes effect September 1, 1991. If this article may not take effect on that date under Article III, Section 39, of the Texas Constitution, this article takes effect December 1, 1991.

(b) Section 16.01 of this article takes effect October 1, 1991. If that section may not take effect on that date under Article III, Section 39, of the Texas Constitution, that section takes effect January 1, 1992.

(51) Strike SECTION 17.01 (Committee Printing page 54, lines 21-27) and substitute a new SECTION 17.01 to read as follows:

SECTION 17.01. (a) Subject to Subsection (c) of this section, the provisions of this Act take effect as provided.

(b) Subject to Subsection (c) of this section, if a section, part, or article of this Act does not have a specified effective date, the section, part, or article takes effect September 1, 1991. Subject to Subsection (c) of this section, if the section, part, or article may not take effect on that date under Article III, Section 39, of the Texas Constitution, the section, part, or article takes effect December 1, 1991.

(c) Notwithstanding any other provision of this Act, if any part of this Act takes effect on or before the 90th day after the adjournment of the 72nd Legislature, 1st Called Session, 1991, the following provisions of this Act have no effect:

- (1) Article 2;
- (2) Sections 4.01 and 4.02;
- (3) Section 8.03;
- (4) Article 12;
- (5) Sections 14.01, 14.02, 14.03, 14.08, and 14.11; and
- (6) Section 16.01.

(52) In Section 171.001, Tax Code, as amended by SECTION 8.01 of the bill (Committee Printing page 17, lines 4-19), strike Subsection (b) and substitute a new Subsection (b) to read as follows:

(b) In this chapter ~~[For the purposes of this Chapter]:~~

(1) "Banking corporation" means each state, national, domestic, or foreign bank, and each bank organized under Section 25(a), Federal Reserve Act (12 U.S.C. Secs. 611-631) (edge corporations), but does not include a bank holding company as that term is defined by Section 2, Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1841).

(2) "Corporation" includes:

(A) ~~[shall include]~~ a limited liability company, as defined under the Texas Limited Liability Company Act; and

(B) a state or federal savings and loan association.

(3) ~~(2)~~ "Charter" includes ~~[shall include]~~ a limited liability company's certificate of organization.

(4) ~~(3)~~ "Internal Revenue Code" means the Internal Revenue Code of 1986 in effect for the federal tax year beginning on or after January 1, 1990, and before January 1, 1991, and any regulations adopted under that code applicable to that period.

(5) "Officer" and "director" include ~~[shall include]~~ a limited liability company's directors and managers.

(6) "Savings and loan association" includes a state or federal savings bank.

(7) ~~(4)~~ "Shareholder" includes ~~[shall include]~~ a limited liability company's member.

(53) After SECTION 8.03 of the bill (Committee Printing page 17, line 48 to page 18, line 46) insert a new SECTION 8.031 to read as follows:

SECTION 8.031. (a) Subchapter A, Chapter 171, Tax Code, is amended by amending Section 171.002 and adding Section 171.0021 to read as follows:

Sec. 171.002. RATES; COMPUTATION OF TAX ~~[GENERAL RATE OF TAX]~~. (a) The rates of the franchise tax ~~[on a corporation]~~ are:

(1) 0.25 percent per year of privilege period of net ~~[\$5.25 for each \$1,000 or fraction of \$1,000 of the corporation's]~~ taxable capital ~~[that is allocated to this state under Section 171.106 or 171.108 of this code]; and [or]~~

(2) 4.5 percent of net taxable earned surplus ~~[\$68]~~.

(b) The amount of franchise tax on each corporation, except as provided in Subsection (d), is computed by adding the following:

(1) the amount calculated by applying the tax rate prescribed by Subsection (a)(1) to the corporation's net taxable capital; and

(2) the difference between:

(A) the amount calculated by applying the tax rate prescribed by Subsection (a)(2) to the corporation's net taxable earned surplus; and

(B) the amount determined under Subdivision (1).

(c) In making a computation under Subsection (b), an amount computed under Subsection (b)(1) or (b)(2) that is zero or less is computed as a zero.

(d) If the amount of tax computed under Subsection (b) for a corporation is less than \$100, the corporation is not required to pay that amount and is not considered to owe any tax for that period [(b) A corporation shall pay the tax on the basis of the rate provided by this section that results in the greater amount of tax due from the corporation to the state].

Sec. 171.0021. TEMPORARY CREDIT FOR SALES TAX PAID ON PROPERTY USED IN MANUFACTURING. (a) A corporation engaged in manufacturing, processing, fabricating, or repairing tangible personal property for ultimate sale or engaged in the overhauling, retrofitting, or repairing of jet turbine aircraft engines and their component parts may take a credit in an amount allowed by this section on the tax due under this chapter for part of the tax the corporation paid under Chapter 151 for the purchase of machinery, equipment, and replacement parts or accessories with a useful life in excess of six months if the equipment is used or consumed:

(1) in or during the actual manufacturing, processing, fabrication, or repair of tangible personal property for ultimate sale, and the use or consumption of the property is necessary or essential to the manufacturing, processing, or fabrication, or repair operation, or to a pollution control process; or

(2) in the overhauling, retrofitting, or repairing of jet turbine aircraft engines and their component parts.

(b) The total amount of the credit allowed under this section is equal to the sum of:

(1) 25 percent of the tax paid to the state under Chapter 151 for property purchased on or after October 1, 1991, and on or before December 31, 1992; and

(2) 50 percent of the tax paid to the state under Chapter 151 for property purchased on or after January 1, 1993, and on or before September 30, 1993.

(c) The corporation may claim the credit beginning with the first report due under this chapter after January 1, 1994, and may carry all or part of the credit forward for not more than five consecutive privilege periods beginning with the 1994 report. A corporation may not claim for a privilege period a credit in an amount that exceeds the amount of tax due for that privilege period. For the purposes of this section, an initial period and a second period are considered one privilege period.

(d) A corporation may not convey, assign, or transfer the credit allowed under this section to another entity.

(e) The corporation must provide to the comptroller any information the comptroller requires to determine the validity of the credit claim.

(f) In this section, "manufacturing" has the meaning assigned by Section 151.318.

(g) This section expires September 1, 1999.

(b) This section takes effect only if Section 8.03 of this Act has no effect as provided by Section 17.01(c) of this Act.

(54) In Section 8.27(a) of the bill (Committee Printing page 30, line 41) strike "Act" and substitute "article".

(55) After SECTION 14.08 of the bill (Committee Printing page 49, lines 9-42) insert a new SECTION 14.081 to read as follows:

SECTION 14.081. (a) Sections 151.318(c) and (h), Tax Code, are amended to read as follows:

(c) The exemption does not include:

(1) machinery, equipment, or replacement parts or their accessories having a useful life when new in excess of six months;

(2) intraplant transportation equipment, maintenance or janitorial supplies or equipment, or other machinery, equipment, materials, or supplies that are used incidentally in a manufacturing, processing, or fabrication operation;

(3) hand tools; ~~or~~

(4) office equipment or supplies, equipment or supplies used in sales or distribution activities, research or development of new products, or transportation activities, or other tangible personal property not used in an actual manufacturing, processing, or fabrication operation; or

(5) internal or external wrapping, packing, and packaging supplies, as defined by Section 151.302(d), purchased for a person's own use, stored for use, or used in wrapping, packing, or packaging tangible personal property.

(h) The amount of the refund or the reduced amount of tax due under Subsection (g) of this section shall be determined as follows:

(1) for property purchased during 1990 ~~[or 1991]~~, the purchaser is entitled to a refund of 25 percent of the tax paid to this state;

(2) for property purchased on or after January 1, 1991, and on or before September 30, 1991, the purchaser is entitled to a refund of 25 percent of the tax paid to this state ~~[for property purchased during 1992, the amount of tax imposed by this chapter shall be reduced by 25 percent];~~

(3) for property purchased on or after October 1, 1991, and on or before September 30, ~~[during]~~ 1993, the amount of tax imposed by this chapter shall ~~not be reduced [by 50 percent];~~

(4) for property purchased on or after October 1, 1993, and on or before December 31, 1993, the amount of tax imposed by this chapter shall be reduced by 50 percent;

(5) for property purchased during 1994, the amount of tax imposed by this chapter shall be reduced by 75 percent; and

(6) ~~[(5)]~~ property purchased on or after January 1, 1995, is exempted from the taxes imposed by this chapter.

(b) This section takes effect only if Section 14.08 of this Act has no effect as provided by Section 17.01(c) of this Act.

The amendment was read.

(Senator Brooks in Chair)

Senator Glasgow offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to C.S.H.B. 11 by adding the following appropriately numbered provisions:

() After SECTION 17.01 of the bill (Committee Printing page 54, lines 21-27), insert a new SECTION 17.011 of the bill to read as follows:

SECTION 17.011. Notwithstanding any other provision of this Act, if any part of this Act takes effect on or before the 90th day after the adjournment of the 72nd Legislature, 1st Called Session, 1991, then, in addition to the provisions listed under Section 17.01(c) of this Act, Section 10.09 of this Act has no effect.

() After SECTION 10.09 (Committee Printing page 42, lines 16-31), insert a new SECTION 10.091 to read as follows:

SECTION 10.091. (a) The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes) is amended by adding Section 11A to read as follows:

Sec. 11A. INCREASE IN FEES. (a) Each of the following fees imposed by or under another section of this Act is increased by \$200:

(1) fee for filing an original application for a real estate broker license;
and

(2) fee for annual renewal of a real estate broker license.

(b) Of each fee increase collected, \$50 shall be deposited to the credit of the foundation school fund and \$150 shall be deposited to the credit of the general revenue fund. This subsection applies to the disposition of each fee increase regardless of any other provision of law providing for a different disposition of funds.

(b) This section takes effect only if Section 10.09 of this Act has no effect as provided by Section 17.011 of this Act.

The amendment to the amendment was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1 as amended, the amendment as amended was adopted by a viva voce vote.

RECORD OF VOTE

Senator Krier asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 1 as amended.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.H.B. 11 in Article 8, Section 8.09 by adding a new Subsection (g) to the proposed Section 171.110, Tax Code, to read as follows:

(g) For purposes of this section, an approved Employee Stock Ownership Plan controlling a minority interest and voted through a single trustee shall be considered one shareholder.

The amendment was read and was adopted by a viva voce vote.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 4

Amend C.S.H.B. 11 as follows:

On page 47, delete lines 35-38 and substitute the following:

(f) The sales price includes the transportation charges in connection with the transfer of title of sand, dirt, gravel, fill, or any other aggregate as that term is defined in the Natural Resources Code, Title 4, Texas Aggregate Quarry and Pit Safety Act, Section 133.003(2), if the transportation charges are made by the transferor of the sand, dirt, gravel, fill, or aggregate.

The amendment was read and was adopted by a viva voce vote.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 5

Amend C.S.H.B. 11 by adding the following article appropriately numbered to read as follows:

ARTICLE ____ FINANCING FOR DISPOSAL OF LOW-LEVEL RADIOACTIVE WASTE

SECTION 1. Section 402.271, Health and Safety Code, as amended by Chapter 804, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

Sec. 402.271. AUTHORITY'S EXPENSES. The authority's expenses shall be paid from:

(1) waste disposal fees;
 (2) planning and implementation fees;
 (3) proceeds from the sale of bonds under Subchapter K;
 (4) contributions from members of a low-level waste compact entered into under Section 402.219(c);

(5) surcharge rebates made by the United States Department of Energy pursuant to Pub. L. No. 99-240;

(6) appropriations made by the legislature; and

(7) other receipts, fees, and interest earned in funds authorized by or collected under this subchapter and deposited in the low-level waste fund. [fees authorized and collected under this subchapter, appropriations made by the legislature, and proceeds from the sale of bonds under Subchapter K.]

SECTION 2. Subchapter J, Chapter 402, Health and Safety Code, is amended by adding Section 402.2721 to read as follows:

Sec. 402.2721. PLANNING AND IMPLEMENTATION FEES. (a) The board shall adopt and periodically revise a planning and implementation fee to be paid by each person in this state who is licensed by the department pursuant to the Texas Radiation Control Act, or by the United States Nuclear Regulatory Commission pursuant to the Atomic Energy Act to possess or use radioactive material or to own or operate a production or utilization facility or other fixed nuclear facility in this state. This fee does not apply to health care providers or institutions of higher education until a state disposal facility is available to receive the generated wastes.

(b) Fees established under this section shall:

(1) include minimum and maximum annual fees in an amount of at least \$5 million for the 1992-1993 biennium to pay for the estimated costs of administering, implementing, and planning the activities authorized by this chapter and shall include at least \$5 million to reimburse the general revenue fund for appropriations expended and incurred by the authority in selecting, characterizing, and licensing a disposal site;

(2) take into account the projected annual volume and the relative hazard presented by each type of low-level waste generated;

(3) be collected by the department as provided by Subchapter H, Chapter 401;

(4) be deposited in the state treasury to the credit of the low-level waste fund, except that at least \$10 million assessed and collected in the 1992-1993 biennium reimburse the general revenue fund for expenses incurred prior to September 1, 1991, shall be deposited in the state treasury to the credit of the general revenue fund;

(5) be paid in four quarterly equal installments beginning on January 1, 1992, and annually thereafter; and

(6) expire on the date the authority begins operation of a disposal facility.

(c) In determining relative hazard, the board shall consider the radioactive, physical, and chemical properties of each type of low-level waste.

SECTION 3. Subchapter J, Chapter 402, Health and Safety Code, is amended by adding Section 402.276 to read as follows:

Sec. 402.276. REASONABLE AND NECESSARY. Fees paid under this subchapter are reasonable and necessary expenses for ratemaking purposes.

SECTION 4. Section 401.301, Health and Safety Code, is amended to read as follows:

Sec. 401.301. LICENSE AND REGISTRATION FEES. (a) The department may collect a fee for each license and registration.

(b) The board by rule shall set the fee in an amount that may not exceed the actual expenses annually incurred to:

(1) process applications for licenses or registrations;
 (2) amend or renew licenses or registrations;
 (3) make inspections of license holders and registrants; [and]
 (4) enforce this chapter and rules, orders, licenses, and registrations under this chapter; and
 (5) collect payments to the low-level waste fund and general revenue as provided by Section 402.2721.

(c) The department may collect a fee, in addition to the annual license and registration fee, of not less than \$100 nor more than \$10,000 per annum from each licensee or registrant who fails to pay the fees authorized by this section.

SECTION 5. Subchapter H, Chapter 401, Health and Safety Code, is amended by adding Section 401.306 to read as follows:

Sec. 401.306. LOW-LEVEL WASTE FUND. (a) The department shall collect a planning and implementation fee in an amount as determined by Section 402.2721.

(b) Fees collected under this section shall be deposited in the state treasury to the credit of the low-level waste fund, except that at least \$5 million for operating, planning, and implementation and \$10 million assessed and collected to reimburse the general revenue fund for expenses incurred prior to September 1, 1991, shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION 6. Section 182.021, Tax Code, is amended by repealing Subdivisions (3) and (4) as added by S.B. 2, Acts of the 72nd Legislature, 1st Called Session, 1991.

SECTION 7. Section 182.022, Tax Code, is amended by repealing Subsections (c), (d), and (e) as added by S.B. 2, Acts of the 72nd Legislature, 1st Called Session, 1991.

SECTION 8. Section 182.026(a), Tax Code, as amended by S.B. 2, Acts of the 72nd Legislature, 1st Called Session, 1991, is amended to read as follows:

(a) ~~This~~ [Except as provided by Sections 182.022(c), (d), and (e), this] subchapter does not apply to a utility company owned and operated by a city, town, county, water improvement district, or conservation district.

SECTION 9. Notwithstanding any provision of S.B. 2, Acts of the 72nd Legislature, 1st Called Session, 1991, to the contrary, if there is a conflict between this article and S.B. 2, Acts of the 72nd Legislature, 1st Called Session, 1991, this article controls.

SECTION 10. This article takes effect September 1, 1991. If this article may not take effect on that date under Article III, Section 39, of the Texas Constitution, this article takes effect December 1, 1991.

The amendment was read and was adopted by the following vote: Yeas 23, Nays 8.

Yeas: Barrientos, Bivins, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Henderson, Johnson, Krier, Leedom, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Turner, Whitmire.

Nays: Armbrister, Brown, Harris of Tarrant, Harris of Dallas, Lucio, Tejeda, Truan, Zaffirini.

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 6

Amend C.S.H.B. 11 by striking Article 8, Franchise Tax, in its entirety and renumbering the remaining articles accordingly.

The amendment was read.

On motion of Senator Glasgow, the amendment was tabled by the following vote: Yeas 23, Nays 8.

Yeas: Armbrister, Barrientos, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Johnson, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Bivins, Brown, Harris of Tarrant, Harris of Dallas, Henderson, Krier, Leedom, Sibley.

On motion of Senator Glasgow and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by the following vote: Yeas 24, Nays 7.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Johnson, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Brown, Harris of Tarrant, Harris of Dallas, Henderson, Krier, Leedom, Sibley.

(President in Chair)

**MOTION TO PLACE COMMITTEE SUBSTITUTE
HOUSE BILL 11 ON THIRD READING**

Senator Glasgow moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 11 be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 24, Nays 7. (Not receiving four-fifths vote of Members present)

Yeas: Armbrister, Barrientos, Bivins, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Johnson, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Brown, Harris of Tarrant, Harris of Dallas, Henderson, Krier, Leedom, Sibley.

MEMORIAL RESOLUTIONS

S.R. 229 - By Truan: In memory of Edward Earl Aldridge of Corpus Christi.

S.R. 232 - By Truan: In memory of Navy Captain Dan Flynn of Nueces County.

S.R. 233 - By Truan: In memory of Jose M. Bustamante of Corpus Christi.

S.R. 234 - By Truan: In memory of respected civic leader Baldemar Tanguma of Corpus Christi.

S.R. 236 - By Truan: In memory of Eliseo Ochoa Ramirez of Corpus Christi and Kingsville.

S.R. 239 - By Truan: In memory of Bill G. Read of Corpus Christi.

S.R. 255 - By Whitmire: In memory of Charles Green Duke of Houston.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 215 - By Sibley: Recognizing Dr. David Hale for his 20 years of loyal service as pastor of Northside Baptist Church in Corsicana.

S.R. 216 - By Brown: Extending congratulations to senior security manager Ernie Pyles on the occasion of his retirement after 45 years of devoted service with Dow Texas Operations.

S.R. 217 - By Lucio: Honoring Elmer C. Gates of San Juan, who recently gained national recognition as the oldest Lions Club president in the United States.

S.R. 218 - By Lucio: Honoring Susan Alma Norton of Mission on the occasion of her 100th birthday.

S.R. 220 - By Bivins: Recognizing Kenneth L. Holloway for his exceptional work as a Texas Agricultural Extension Service agent for the people of Moore County.

S.R. 221 - By Sibley: Extending congratulations to esteemed educator Helen Brewer on the occasion of her retirement after 32 years of service in the Malakoff Independent School District.

S.R. 222 - By Sibley: Extending congratulations to Michellina DeLosSantos of Avalon, who was crowned Miss Y on June 20, 1991.

S.R. 223 - By Sibley: Recognizing Andrea Smith of Malakoff for winning first place in the Northeast District 4-H Fashion Show.

S.R. 224 - By Sibley: Recognizing the Navarro College cheerleaders for their outstanding performance at the National Cheerleaders Association Camp at Southern Methodist University.

S.R. 225 - By Sibley: Extending congratulations to Mr. and Mrs. Bob Bralick of Wills Point on the occasion of their 20th wedding anniversary.

S.R. 226 - By Ellis: Extending congratulations to Lee Bell, Cedric Davis, Robert Malone, Ronnie Price, Samuel Reid, Jr., and Tina Waxman for their outstanding participation in the Special Olympics International Summer Games.

S.R. 227 - By Johnson: Honoring Hazel Jeane Pendleton Thomas on the momentous occasion of her retirement from the Dallas Independent School District.

S.R. 228 - By Truan: Welcoming the National Council of La Raza to Houston for its 1991 Annual Conference.

S.R. 230 - By Truan: Extending congratulations to Jesse Benavides for winning the prestigious World Boxing Organization junior featherweight world crown.

S.R. 231 - By Truan: Extending congratulations to Kevin Keiper of Kingsville on achieving the rank of Eagle Scout.

S.R. 235 - By Truan: Recognizing the citizens of Sinton, who celebrated their 75th anniversary on July 4, 1991.

S.R. 237 - By Truan: Extending congratulations to Texas A&I University on their receipt of a \$25,000 agriculture scholarship fund in honor of the late W. E. Cumberland of Kleburg County.

S.R. 238 - By Truan: Extending congratulations to the Robstown Cotton Pickers baseball team on their recent state championship.

S.R. 240 - By Truan: Extending congratulations to the Falfurrias High School baseball team on winning the Class 3A State Championship.

S.R. 241 - By Truan: Extending congratulations to Mr. and Mrs. Calletano Avalos, Sr., of Corpus Christi on the occasion of their 50th wedding anniversary.

S.R. 242 - By Sibley: Extending congratulations to Mr. and Mrs. Homer Sims of Marlin on the occasion of their 50th wedding anniversary.

S.R. 243 - By Sibley: Honoring Mrs. Martha Gilliam of Freeport on the occasion of her 95th birthday.

S.R. 244 - By Sibley: Commending Ryder Appleton, president of the Waxahachie Future Farmers of America Chapter, for winning third place in the state competition for his excellent speech, "Myths About Beef."

S.R. 245 - By Sibley: Extending congratulations to Ravella Woods of South Oak Cliff High School, who has been awarded a scholarship from the Savings of America Career Awareness Program.

S.R. 246 - By Sibley: Extending congratulations to Cedric Williams of Malakoff High School, who was named Student of the Month for February, 1991.

S.R. 247 - By Sibley: Extending congratulations to Bill Prindible of Oak Cliff on being named an All-State First Place winner in the piano solo division of the Junior Federation of Music Clubs.

S.R. 248 - By Sibley: Extending congratulations to Michael McCarty of Ovilla on being named an All-State First Place winner in the piano solo division of the Junior Federation of Music Clubs.

S.R. 249 - By Sibley: Recognizing Terrell Bolton for his recent selection as the 1990-1991 Oak Cliff Citizen of the Year.

S.R. 250 - By Sibley: Extending congratulations to Yolanda L. Lee of L. G. Pinkston High School, who has been awarded a scholarship from the Savings of America Career Awareness Program.

S.R. 251 - By Sibley: Extending congratulations to Mary Diggs of Malakoff High School, who was named Student of the Month for February, 1991.

S.R. 252 - By Sibley: Extending congratulations to Mr. and Mrs. Edward Whitt on the occasion of their 50th wedding anniversary.

S.R. 253 - By Sibley: Recognizing Dr. Jerry R. Ellis for being selected for the Academy of General Dentistry's Fellowship Award.

S.R. 254 - By Sibley: Recognizing Josh Pirtle for winning the Honorable Mention Award in the second annual national Maryknoll Student Essay Contest.

ADJOURNMENT

Senator Brooks moved that the Senate at 7:08 p.m. stand adjourned, in memory of Shannon Jerome Jordan of Laredo, until 7:10 p.m. today.

The motion prevailed by a viva voce vote.

APPENDIX

Sent to Comptroller
(August 12, 1991)

S.B. 3

**In Memory
of
Shannon Jerome Jordan**

Senator Zaffirini offered the following resolution:

(Senate Resolution 81)

WHEREAS, The Senate of the State of Texas joins with the citizens of Laredo in mourning the untimely loss of Shannon Jerome Jordan who died in Paris, France, May 27, 1991, at the age of 22; and

WHEREAS, Born in Laredo, Texas, August 5, 1968, Shannon was a graduate of Saint Augustine High School where he was editor-in-chief of the fine arts magazine, president of the Drama Club, and active in varsity baseball, basketball, and track; and

WHEREAS, He graduated from Trinity University in San Antonio in 1990 with bachelor of arts degrees in international studies, philosophy, and history; and

WHEREAS, Exceptionally talented and a world traveler, Shannon had also attended Georgetown University and Harvard University and had spent a year abroad studying classical philosophy in Athens and Rome; and

WHEREAS, An outstanding individual with maturity well beyond his years, Shannon was noted for his thirst for knowledge; his extensive travels were part of his efforts to acquire firsthand knowledge of the world, its history, its languages, and the people of different cultures; and

WHEREAS, He studied the origins of democracy at King's College in London and created a film on the history of law by focusing on the court buildings and historical sites of Israel, Greece, Rome, London, and Paris; and

WHEREAS, He had attended the Universidad Iberoamericana in Mexico City in 1990 and, while in Mexico, had lectured on the political, legal, and economic structure of the United States to executives of 3M Corporation; and

WHEREAS, At the time of his death, Shannon had been studying at La Sorbonne in Paris and his goal was to eventually attain a law degree and specialize in international law; and

WHEREAS, His extracurricular activities in college included writing, debating, and membership in the Young Democrats, Pre-Law Association, and Sigma Iota Rho National Honor Society for International Studies; he also played football and baseball, was an assistant to Dr. Peter French, a professor of philosophy, and spent volunteer time with emotionally disturbed adolescents; and

WHEREAS, Unusually proficient for someone his age, Shannon's work experience included a position in the Trust Department of Laredo National Bank, serving as a law clerk for the firm of Person, Whitworth, Ramos, Borchers, and Morales, and internships with the following: NBC News; CNBC London; the Supreme Court of the United States, the United States Representative for District 23, Marshal's Office, Washington, D. C.; office of the Mayor, City of San Antonio; and the United States District Judge for the Southern District of Texas, Laredo, Texas; and

WHEREAS, Uncommonly unassuming and intelligent, Shannon Jordan was also generous, witty, and kind; he was a unique and amazing individual who loved life and who lived his life to the fullest; and

WHEREAS, A good friend and mentor of Shannon's once stated of him, "He is the most remarkable young person I've ever met, and very likely one of the most remarkable persons of any age I've ever met" — a feeling shared by many who knew him; and

WHEREAS, Though Shannon Jordan will be greatly missed, he will continue to live on in the hearts and minds of all who knew him; and his family and friends will have memories to be treasured forever; and

WHEREAS, The legacy Shannon leaves behind can best be expressed through his own words: "The greatest gift a person can give is the gift of themselves. If we all gave of ourselves, and we each continued the giving process, imagine what a wonderful world it would be"; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 72nd Legislature, 1st Called Session, hereby extend sincere condolences to the bereaved family of Shannon Jerome Jordan: his parents, Jerome and Sharyn Jordan; his brother, Russell; his sisters, Janyne and Pamela; his niece, Kathryn; his maternal grandmother, Margaret Peterson; and his paternal grandfather, Samuel J. Jordan; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the members of his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Shannon Jerome Jordan.

The resolution was read.

Senator Zaffirini was recognized and introduced to the Senate Jerome and Sharyn Jordan, the parents of Shannon; his sister, Pamela Bonner, and her daughter, Katheryn; his sister, Janyne Jordan; his brother, Russell Jordan; and his girlfriend, Silke Schmiedling.

An enrolled copy of the resolution, previously adopted by the Senate on Tuesday, July 30, 1991, was presented to the family by the President.